

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

April 20, 2006

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, April 20, 2006, at 1:30 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Harold Warner Jr., Chair; Darrell Downing Vice-Chair; Bill Johnson; Bob Aldrich; Elizabeth Bishop; Don Anderson; Denise Sherman (In @ 1:40); Ronald Marnell; Hoyt Hillman; Morris K. Dunlap and Michael Gisick. John W. McKay Jr.; M.S. Mitchell and Bud Hentzen were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Senior Planner; Scott Dunakey, Associate Planner; David Barber, Advanced Plans Manager and Rose Simmering, Recording Secretary.

1. Approval of March 16, 2006 and April 6, 2006 meeting minutes.

MOTION: Approve meeting 3-16-06 minutes.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (10-0).

MOTION: Approve meeting 4-6-06 minutes.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (10-0).

❖ SUBDIVISION ITEMS

2. Consideration of Subdivision Committee recommendations from the meeting of April 13, 2006.

2-1. SUB 2006-28: One-Step Final Plat -- NEWMAN UNIVERSITY 3RD ADDITION, located south of Kellogg and west of Meridian.

NOTE: This is an unplatted site located within the City.

STAFF COMMENTS:

- A. City water is available to serve the site. Either the west line of the plat needs to be moved further west or an off-site private easement needs to be obtained for sewer connection. If a private easement is done, a copy of the recorded easement needs to be provided to Central Inspection prior to issuance of a new sewer permit.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan. **The drainage plan has been approved with conditions.**
- D. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- E. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- G. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of

Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.

- K. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- O. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approved subject to staff recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (10-0).

- 2-2. **SUB 2006-23: One-Step Final Plat -- EVANS 1ST ADDITION**, located on the southeast corner of 85th Street North and 103rd Street West.

NOTE: This site is located in the County in an area designated as "rural" by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since neither sanitary sewer nor municipal water is available to serve this property, the applicant shall contact **County Code Enforcement** to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage and water wells. A memorandum shall be obtained specifying approval.
- B. In conformance with the Urban Fringe Development Standards, for individual domestic wells that are proposed, a water availability evaluation must be provided to **Sedgwick County Code Enforcement** to assure the availability of an adequate, safe supply of water that does not impair existing water rights. Easements shall be dedicated for potential future extension of public water.
- C. **County Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan has been provided. Drainage easements need to be shown on the plat to coincide with the drainage plan. An off-site agreement is needed. Minimum pads need to be platted.**
- D. **County Engineering** needs to comment on the access controls. The plat denotes four openings along 103rd St. West and two openings along 85th St. North. **County Engineering requests a single combined entrance for Lots 1 & 2 on 85th St. North. A single combined entrance for Lots 3 & 4 is requested on 103rd St. West.**
- E. **Sedgwick County Fire Department** advises that all access drives shall be in accordance with Sedgwick County Service Drive Code.
- F. **County Engineering** has requested a standard right-of-way intersection. The Access Management Regulations requires a major street intersection to include a 75-foot half-street right-of-way measured 250 feet from the centerline of the intersecting arterials and a tapered length of 100 feet. An additional 25-foot x 25-foot corner clip is needed at the intersection.
- G. A contingent building setback should be platted through the existing building on Lot 5. The plat's text should specify that the contingent setback is effective upon all subsequent reconstruction.
- H. The language "lots and a blocks" shall be referenced in the plat's text.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- J. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet

with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- M. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Approved subject to staff recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (10-0).

2-3. SUB 2006-24: One-Step Final Plat -- OLIVIA'S 1ST ADDITION, located on the west side of Hoover and north of Central.

NOTE: This is an unplatted site located within the City. A zone change request (ZON 2006-10) from SF-5, Single-Family Residential to TF-3, Two-Family Residential has been requested.

STAFF COMMENTS:

- A. Existing sanitary sewer and related easements need to be corrected on the plat, which will affect availability of sanitary sewer to Lot 4. Applicant needs to address serving Lot 4 with water or else a water extension is required in 8th St with drivable surface or street paving. The dimension for the utility easement needs to be revised.
- B. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being scheduled for City Council, the zone change will need to be approved by City Council.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- D. **City Engineering** needs to comment on the status of the applicant's drainage plan. **A drainage plan needs to be submitted and approved prior to MAPC meeting.**
- E. If any drainage will be directed onto I-235, a letter shall be provided from KDOT indicating their agreement to accept such drainage.
- F. **Traffic Engineering** needs to comment on the access controls. The plat proposes four openings along Hoover. **The access controls are approved.**
- G. 8th Street adjoining the south line of the plat should be labeled as "Vacated".
- H. This property is within a zone identified by the City Engineers' office as likely to have groundwater at some or all times within 10 feet of the ground surface elevation. Building with specially engineered foundations or with the lowest floor opening above groundwater is recommended, and owners seeking building permits on this property will be similarly advised. More detailed information on recorded groundwater elevations in the vicinity of this property is available in the City Engineers' office.
- I. The applicant shall submit an avigational easement covering all of the subject plat and a restrictive covenant assuring that adequate construction methods will be used to minimize the effects of noise pollution in the habitable structures constructed on subject property.
- J. The signature line for the City Clerk needs to be revised to reference "Karen Sublett".
- K. The ingress and egress easement shall be established by separate instrument. Initial construction responsibilities and future maintenance of the driveway within the easement should also be addressed by the text of the instrument.

- L. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- M. The platting text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of storm water.
- N. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- O. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- P. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- Q. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- R. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- S. Perimeter closure computations shall be submitted with the final plat tracing.
- T. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- U. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Westar Energy has requested additional easements.
- V. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

MOTION: Defer the item for three weeks since a drainage plan has not been submitted.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (10-0).

❖ PUBLIC HEARINGS – VACATION ITEMS

- 3-1. VAC 2006-15: Request to Vacate a Portion of a Platted Easement**, generally located west of Rock Road, on the north side of Kellogg Avenue and east of Armour Drive.

<u>OWNER/APPLICANT:</u>	Simon Property Group, LP City of Wichita
<u>AGENT:</u>	Ruggles & Bohm, c/o Tom Ruggles
<u>LEGAL DESCRIPTION:</u>	The east 8-feet of the south 350-feet of the north 787-feet of Lot 2, Rockwood South Third Addition and the west 10-feet of the south 350-feet of the north 787-feet of the south 881-feet of Lot 1, Kellogg Mall Addition, all in Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located west of Rock Road on the northeast corner of the Armour Drive – Kellogg Drive intersection (WCC #II)
<u>REASON FOR REQUEST:</u>	Relocation of business due to improvements on Kellogg Avenue
<u>CURRENT ZONING:</u>	The subject property, abutting northern and eastern properties and adjacent southern properties are zoned "LC" Limited Commercial. Adjacent eastern properties are zoned "PUD" Planned Unit Development and "LC". The eastern portion of the subject site is part of CUP DP-12

The applicant proposes to vacate the described portions of the platted utility easements, as shown on the applicant's exhibit. The easements do not have utilities, manholes, sewer or water lines in them. The applicant's exhibit also shows a proposed a 20-foot

utility easement for relocated utilities. The Rockwood South Third Addition was recorded with the Register of Deeds October 19, 1966. The Kellogg Mall Addition was recorded with the Register of Deeds June 18, 1973.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portions of the platted easements, as described, with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time March 30, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above described platted easements and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the easement dedicated by separate instrument described in the petition should be approved with conditions:
- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. Replacement easements will be the City standard of 20-feet in width. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant: Public Works has noted that relocation of public utilities on this site is a private project.
 - (3) Retain the easements until all utilities have been relocated (or provide a guarantee for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
 - (4) All improvements shall be according to City Standards and at the applicant's expense.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Provide Staff with a copy of any required additional easements (with original signatures) dedicated by separate instrument, as needed and approved by Public Works, Water & Sewer, Storm Water and franchised utilities. Replacement easements will be the City standard of 20-feet in width. These easements will go with the Vacation Order to City Council for final action and recording with the Register of Deeds.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicant: Public Works has noted that relocation of public utilities on this site is a private project.
- (3) Retain the easements until all utilities have been relocated (or provide a guarantee for relocation of the utilities that has been accepted by the City) and the new easements for the relocated utilities have been recorded with the Register of Deeds.
- (4) All improvements shall be according to City Standards and at the applicant's expense.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approve subject to staff recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (10-0).

- 3-2. **VAC 2006-16: Request to Vacate a Portion of a Platted Alley**, generally located between Cleveland and Matthewson Avenues, & Douglas Avenue and 1st Street.

APPLICANTS/AGENT: William R Jackson
Mark Savoy

LEGAL DESCRIPTION: The platted 15-foot wide platted alley ROW located between odd numbered Lots 1-23 and even numbered Lots 2-24 all in the Mathewson and Hoff's Subdivision in Mathewson's Addition, and the 15.8-foot wide platted alley located between odd numbered Lots 1-11 and along the west 59-feet of Lot 23, all in the Mathewson's Addition and Lot 21, Pinkam's Subdivision, all in Wichita, Sedgwick County, Kansas.

LOCATION: Generally located between 1st Street and Douglas Avenue and Mathewson and Cleveland Avenues (WCC #).

REASON FOR REQUEST: Revert to private property for additional parking.

CURRENT ZONING: The site is a platted, developed alley. All abutting and adjacent properties are zoned "CBD" Central Business District

The applicant is requesting vacation of the described north to south platted alley. There is a sewer line and manholes in the alley; the sewer line was installed in 1903. The subject site is located within the Gilbert Mosley Redevelopment District. Westar has equipment in the alley. The applicant owns all the abutting property. The Mathewson and Hoff's Subdivision of the Mathewson Addition was recorded with the Register of Deeds April 14, 1887. The Pinkham's Subdivision of the Mathewson Addition was recorded with the Register of Deeds March 5, 1886.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted alley ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 30, 2006 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted alley ROW and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted alley ROW described in the petition should be approved with conditions:
- (1) Retain the alley as an easement.
 - (2) Dedicate, by separate instrument, an additional 5-feet of easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.
 - (3) No improvements over the alley until Water & Sewer have evaluated the condition of the 103-year sewer line located in the sewer and made any necessary maintenance, repair or replacement of the line.
 - (4) The alley is located in the Gilbert Mosley Redevelopment District; the applicant shall contact the District in regards to the location of any of the District's equipment in the alley.
 - (5) If needed, provide any required drainage plans for review and approval.
 - (6) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
 - (7) All improvements shall be according to City Standards. If the drive onto 1st Street is to remain open it must be constructed to City Standards and at the owner's expense. If the alley is to be closed, the continuation of the curbing and reconstruction of the sidewalk must be to City Standards and at the owner's expense. Provide the City with a guarantee for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
 - (8) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Retain the alley as an easement.

2. Dedicate, by separate instrument, an additional 5-feet to 4.2-feet, as needed, of easement, the length of the vacated alley. This must be provided to Staff prior to the case going to WCC for final action.
3. No improvements over the alley until Water & Sewer have evaluated the condition of the 103-year sewer line located in the sewer and made any necessary maintenance, repair or replacement of the line.
4. The alley is located in the Gilbert Mosley Redevelopment District; the applicant shall contact the District in regards to the location of any of the District's equipment in the alley.
5. If needed, provide any required drainage plans for review and approval.
6. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants and at the applicant's expense.
7. All improvements shall be according to City Standards. If the drive onto 1st Street is to remain open it must be constructed to City Standards and at the owner's expense. If the alley is to be closed, the continuation of the curbing and reconstruction of the sidewalk must be to City Standards and at the owner's expense. Provide the City with a guarantee for these improvements. These must be provided to Staff prior to the case going to WCC for final action.
8. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approve subject to staff recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (10-0).

3-3. VAC 2006-17: Request to Vacate a Portion of Platted Half Street Right-of-Way. generally located east of 151st Street West, south of Maple Street and between Taft Avenue and Valley Hi Road.

<u>APPLICANTS:</u>	Albert A & Joy F Madero Michael D & Chrissy L Cluck
<u>AGENT:</u>	Baughman Company, P.A. c/o Phil Myer
<u>LEGAL DESCRIPTION:</u>	Generally described as that portion of the 40-foot wide, unimproved, City View Street half-street ROW, that abuts Taft Avenue/Street on its north side, Valley Hi Road on its south side, the east lot lines of Lots 1, 8, & 9, Block G and Reserve "C", all in the Auburn Hills 16 th Addition and the west lot lines of Lot 1, Block A, O'Dell – White Addition and Lot 1, Block 3, Maple Hill 5 th Addition, all in Wichita, Sedgwick County, Kansas.
<u>LOCATION:</u>	Generally located south of Maple Street, east of 151 st Street West, and between Taft Avenue and Valley Hi Road (WCC #V)
<u>REASON FOR REQUEST:</u>	No dedication of western matching half-street ROW
<u>CURRENT ZONING:</u>	The site is platted half-street street ROW. All abutting properties are zoned "SF-5" Single-family Residential.

The described portion of the 40-foot wide, unimproved half-street City View Street ROW was recorded on the (the north 202-feet) Maple Hill Fifth Addition, January 31, 1969 and the (the south 291.02-feet) O'Dell - White Addition, June 18, 1975. The properties abutting the west side of the half-street ROW are located in the Auburn Hills 16th Addition, recorded October 7, 2005. This plat did not dedicated the needed half-street ROW to complete City View at this location, thus this portion of City View will not met the Subdivision Standards for residential street ROW width. City View continues north of Taft, but there is no dedicated ROW for City View south of the subject portion. The Goddard School District's buses use this portion of City View to turn off of Valley Hi Road, as Valley Hi, although platted to continue west of the City View – Valley Hi intersection, has not been improved. There appears to be no manholes, sewer or water line in this portion of the ROW. Westar has utilities in the portion of the ROW that abuts the west side of Lot 1, Block 3, Maple Hill 5th Addition. There are considerations for drainage in the ROW.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted half-street street ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time March 30, 2006 which was at least 20 days prior to this public hearing.

2. That no private rights will be injured or endangered by the vacation of the above-described portion of platted half-street right-of-way and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted City View half-street ROW as described in the petition should be approved with conditions:
- 1) The vacated ROW will revert to private property. Lot 1, Block A, O'Dell – White Addition and Lot 1, Block 3, Maple Hill 5th Addition are the abutting properties located within the plats where the 40-foot City View half-street ROW was dedicated.
 - 2) There are platted 30-foot setbacks on the west sides of Lot 1, Block A, O'Dell – White Addition and Lot 1, Block 3, Maple Hill 5th Addition. Vacate those setbacks and replace them with the interior side yard setbacks, per the UZC for the "SF-5" zoning district to run parallel to the new property lines established by the vacated half-street ROW.
 - 3) Retain the east 10 to –20-feet, as needed by Westar, of the vacated ROW, that runs parallel to the west lot line of Lot 1, Block 3, Maple Hill 5th Addition as easement. Retain the east 10-feet, as needed by SBC, of the vacated ROW, that runs parallel to the west lot line of Lot 1, Block A, O'Dell - White Addition as easement.
 - 4) Retain a portion or the entire vacated ROW as a drainage easement as determined by the Storm Water Engineer.
 - 5) Provide the Goddard School District with a temporary, paved cul-de-sac/turn around at the vacated portion of City View Street at its intersection with Valley HI Road: Public Works has noted that this is a construction project and thus guaranteed.
 - 6) Extend the platted 30-foot front yard setback, located on Lot 1, Block A, O'Dell – White Addition, into the vacated ROW. Extend the platted 40-foot front yard setback, located on Lot 1, Block 3, the Maple Hill 5th Addition, into the vacated ROW: done by vacation order.
 - 7) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
 - 8) All improvements shall be according to City Standards and at the applicant's expense, including continuation of curbing along Taft Avenue or Valley HI Road, or construction of private drives onto Taft or Valley HI Road. Provide a guarantee for either of these improvements.
 - 9) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- 1) The vacated ROW will revert to private property. Lot 1, Block A, O'Dell – White Addition and Lot 1, Block 3, Maple Hill 5th Addition are the abutting properties located within the plats where the 40-foot City View half-street ROW was dedicated.
- 2) There are platted 30-foot setbacks on the west sides of Lot 1, Block A, O'Dell – White Addition and Lot 1, Block 3, Maple Hill 5th Addition. Vacate those setbacks and replace them with the interior side yard setbacks, per the UZC for the "SF-5" zoning district to run parallel to the new property lines established by the vacated half-street ROW.
- 3) Retain the east 10 to –20-feet, as needed by Westar, of the vacated ROW, that runs parallel to the west lot line of Lot 1, Block 3, Maple Hill 5th Addition as easement. Retain the east 10-feet, as needed by SBC, of the vacated ROW, that runs parallel to the west lot line of Lot 1, Block A, O'Dell – White Addition as easement.
- 4) Retain a portion or the entire vacated ROW as a drainage easement as determined by the Storm Water Engineer.
- 5) Provide the Goddard School District with a temporary, paved cul-de-sac/turn around at the vacated portion of City View Street at its intersection with Valley HI Road: Public Works has noted that this is a construction project and thus guaranteed.
- 6) Extend the platted 30-foot front yard setback, located on Lot 1, Block A, O'Dell – White Addition, into the vacated ROW. Extend the platted 40-foot front yard setback, located on Lot 1, Block 3, the Maple Hill 5th Addition, into the vacated ROW: done by vacation order
- 7) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility and at the expense of the applicants.
- 8) All improvements shall be according to City Standards and at the applicant's expense, including continuation of curbing along Taft Avenue or Valley HI Road, or construction of private drives onto Taft or Valley HI Road. Provide a guarantee for either of these improvements.

- 9) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

MOTION: Approve subject to staff recommendation.

ALDRICH moved, **DOWNING** seconded the motion, and it carried (10-0).

❖ **PUBLIC HEARINGS**

4. **Case No.: DR2005-18** - Request Adoption of the South Central Neighborhood Plan Area Boundaries: Kellogg on the north, the Arkansas River on the south and west, and Washington and the railroad tracks, from Pawnee to the Arkansas River, on the east.

Background: On March 16, 2006, the Metropolitan Area Planning Commission received a briefing on the proposed *South Central Neighborhood Plan*. Following the briefing, the MAPC passed a motion to set a public hearing date of April 20, 2006, to hear formal public feedback on the proposed Plan.

At the hearing, the MAPC asked that additional information be provided regarding the future cost of infrastructure projects recommended by the Plan's implementation initiatives. The Plan provides general policy direction and lays out the processes by which future policy decisions should be made. While the plan identifies infrastructure projects that are desired, adopting the plan does not necessarily indicate that these projects will be implemented. Each individual infrastructure project will receive separate approval, and the decision will be based, in part, on a detailed cost-benefit analysis of the project.

To provide the additional information requested by the MAPC, the attached *South Central Neighborhood Plan*, May 2006, has been revised to add cost information for those implementation initiatives that recommend infrastructure projects. The cost information provided is an estimate based on the cost of similar projects. The cost estimates are in today's dollars, even though the project may not be completed for 15-20 years or more. Future decisions to implement each individual infrastructure project will be made based on a policy review, as outlined by the Plan's implementation initiatives.

Recommended Action: That the MAPC pass a resolution adopting the *South Central Neighborhood Plan*, May 2006, as an element of *The Wichita-Sedgwick County Comprehensive Plan*.

Attachments: *South Central Neighborhood Plan*, May 2006, Draft 4-20-06
South Central Neighborhood Plan Summary Report, Draft 4-20-06

DALE CHURCHMAN, 1357 S. Broadway, Wichita, KS 67211 This plan has been in the works for a number of years, in 1979, US-81 was moved to I-135 and many small hotels and businesses that were dependent on the highway were without customers. The neighborhood deteriorated. Thus the neighborhood conducted surveys and studies to identify good and bad characteristics of the neighborhood. The South Central Improvement Alliance and the South Central Neighborhood Association were revamped and selected new leadership.

BILL DAVIS, 1818 S. Main, Wichita KS 67213 I am the President of the South Central Neighborhood Association. I represent about 20,000 + people in this area and they are looking for a chance to improve and build a better neighborhood.

ANDY SOLTER, 703 S. Main, Wichita, KS 67202 Today, I am representing the South Central Improvement Alliance. As part of this plan, there are a group of neighborhood businesses, the local churches, as well as the local schools, and residences that have worked on this plan the last 5 years, and the plan will be funded in large part from them.

ALDRICH We have a couple of these Neighborhood Plans presented to us and this is one of the best ones that I have reviewed and seen.

MOTION: Adopt the South Central Neighborhood Plan, May 2006, as an element of The Wichita-Sedgwick County Comprehensive Plan.

ALDRICH moved, **HILLMAN** seconded the motion, and it carried (11-0).

5. **Case No.: CON2006-09** – Snook Trust Agreement (James K. Snook); Milo M. Unruh, Jr. and Catherine Rocky (agents) Request Sedgwick County Conditional Use for C & D landfill and extension of CU-403 for rock crusher and continuation of CON2002-12 for sand and gravel extraction, property zoned "LI" Limited Industrial on property described as;

TRACT A: Lot 1, Block 1, The Broad Street Addition to Sedgwick County, Kansas.

TRACT B: A tract of land in the Northeast Quarter of Section 14, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Described as follows: that part of the Northeast Quarter of said Section 14, lying West of the Missouri Pacific Railroad Right-of-Way (as Established in Deed Book 964, page 39 and in Deed Book 1230, page 340), EXCEPT the North 933.00 feet thereof, and EXCEPT that part taken for the Wichita-Valley Center Floodway Condemned by Case A-30410 and EXCEPT that part Platted as The Broad Street Addition to Sedgwick County, Kansas.

TRACT C: That part of the West half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M. Sedgwick County, Kansas lying east of the Wichita-Valley Center Flood Control Right-of-Way per Condemnation Case A-30410 and west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 344, TOGETHER with that part of the East half of the Southeast Quarter of Section 14, Township 28 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas lying west of the Missouri Pacific Railroad Right-of-Way as established by the Deed filed in Book 1230, page 342.

TRACT A: Lot 1, Block 1, The Broad Street Addition to Sedgwick County, Kansas.

TRACT B: A tract of land in the Northeast Quarter of Section 14, Township 28 South, Range 1 West of the Sixth Principal Meridian, Sedgwick County, Kansas, Described as follows: that part of the Northeast Quarter of said Section 14, lying West of the Missouri Pacific Railroad Right-of-Way (as Established in Deed Book 964, page 39 and in Deed Book 1230, page 340), EXCEPT the North 933.00 feet thereof, and EXCEPT that part taken for the Wichita-Valley Center Floodway Condemned by Case A-30410 and EXCEPT that part Platted as The Broad Street Addition to Sedgwick County, Kansas.

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Generally located East of Wichita-Valley Center Floodway and approximately 1,000 feet south of MacArthur Road (south of Broad Street/Oak Street intersection).

BACKGROUND: The application area is 82.35 acres of "LI" Limited Industrial zoned land, subject to Conditional Uses 403 and 2002-12, located south of MacArthur, east of the Wichita-Valley Center Floodway and west of West Street. Per Conditional Use 403, the northern 57.61 acres (the northern 1,660 feet of the 82.35-acre site, as measured along the east property line) of the application area permits rock crushing and borrow excavations until August 28, 2006. CON2002-12 covers the southern 24.74 acres (the southern approximately 1,600 of the 82.35 acre application area) and permits mining and quarrying operations through May 15, 2012. (See Exhibit A.) CON2002-12 will continue to May 15, 2012 regardless of the outcome of this request. CU-403 uses would cease on August 28, 2006, unless the time period is extended by this application, as discussed below. To summarize the range of existing permitted uses on the entire 82.35-acre site: all LI Limited Industrial uses permitted by-right (entire application area), soil extraction (entire site) and rock crushing and concrete and rock recycling (northern 57.61 acres only).

Currently the southern half of the area covered by CU-403 has been excavated while the northern half has the crushing operation, material stockpiles and a metal building that appears to be a contractor's yard. The southern 24.74 acres covered by CON2002-12 appears to be un-mined. (See Exhibit A.)

The applicant is seeking an extension of the rock crushing and borrow excavation activities permitted by CU-403 from August 28, 2006, to August 28, 2016, and approval of a construction and demolition (C&D) landfill on the southern 58.80 acres of the application area, as depicted on Exhibit D – the southern approximately 2,650 feet of the application area.

The northern boundary of the C&D application area is located approximately 660 feet south of the applicant's northern property line, located on the south side of Oak Street. (Oak Street is platted but not installed.) The northern limit of the fill area is to be setback from the C&D application area a minimum of 80 feet, or 740 feet south of Oak Street. The setback along the eastern property line varies from 30 to 50 feet. (Thirty to 50-foot setbacks from the applicant's property line will require County Commission approval as this distance does not comply with adopted site design setbacks described in B of the Conformance to Plans and Policies section below.) The setback along the western property line varies from 150 to 185 feet. (All distances are approximate.) For the area covered by the C&D application, the setback distances established by this request will replace any setbacks established by CU-403 and CON2002-12. C&D activities will occur in three phases as depicted on Figure 2. The height of the fill area is projected to be 40 feet. (CU-403 limits the height of both raw and finished materials piles to 25 feet. The LI Limited Industrial district permits heights up to 80 feet, plus two feet of additional height for every one foot of additional setback above the minimum required.)

A ten-year time period is requested, commencing upon final state and local regulatory approval. Access to the proposed C&D landfill is to be off of Broad Street, as it is today for the existing Conditional Uses. The applicant proposes to plant native shrubs in

clusters on all sides of each phase as final cover is being applied. Areas not planted with shrubs would be planted with native grasses.

If the request is approved the applicant will need to vacate a utility and drainage easement and dedicate same in other locations, as depicted on Figures 1A and 2, and in the applicant's letter of request.

All properties immediately adjacent to the north, east and south are zoned "LI" Limited Industrial. Immediately west of the application area is the Wichita-Valley Center Floodway, which is not zoned and is approximately 1,180 feet wide at this location. The land west of the floodway is zoned a mix of residential, "SF-5" Single-family Residential and SF-20 Single-family Residential, with part of the land preliminarily platted as Gray's 5th Addition and final platted as the Trinity Point Subdivision. Trinity Point is partially built out, but there are a number of remaining vacant lots. Land to the north of the applicant's ownership is zoned LI Limited Industrial, and is mostly vacant or agricultural use with a residence, but part of the area is platted as the Diamond Addition to Oatville. Immediately east of the application area is the Kansas and Oklahoma Railroad line, which is active. Beyond the railroad is a mix of farm ground, industrial, commercial and government uses, all zoned LI, Limited Industrial.

In a larger context, there are several existing and newer residential subdivisions located in the general area. Besides Trinity Point Addition to the west, Wheatland Addition, a residential subdivision, is located west of Hoover. The land located west of the floodway and north of Trinity Point Addition is zoned for residential use. An elementary school and a church also are present. To the north of MacArthur is Oatville, an existing residential neighborhood. West and north of Oatville is the recently approved residential subdivision, Blue Lakes. The area east of West Street is predominately zoned and used for residential purposes with some smaller tracts zoned for commercial and industrial uses. Residences and a manufactured home park already exist, and a newer residential subdivision, Angle Fire, has been approved.

Based upon information provided by the applicant, the proposed C&D landfill would become a prominent highly visible landmark within the neighborhood, much to the detriment of these neighbors. Trinity Point Addition, located west of the floodway, has an elevation that ranges between 1284 and 1297 (approximate). The tops of the high banks of the Wichita-Valley Center Floodway are an elevation of 1298. With 40 feet of fill from existing grade, the top of the proposed landfill is projected to be at an elevation of 1326, resulting in at least 28 feet of the fill area being visible, across the floodway, from the subdivision. The closest residence is located approximately 400 feet north of the application area and 900 feet to the northeast. The railroad is at an elevation of 1294, resulting in at least 32 feet of the fill area visible from the east if the fill were to be 40 feet above grade.

CASE HISTORY: CU-403, which permits rock crushing, storage and recycling of concrete and asphalt and soil excavation, was approved in 1996. CU-403 contained 19 conditions of approval, among which was a 25-foot height limitation on stockpiles of raw and finished materials. CON2002-12, which permits mining and quarrying was approved in 2002. A portion (42.83 acres) of the area covered by CU-403 is platted as the Broad Street Addition, which was recorded in 2002. The remainder of the site is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "LI" Limited Industrial; vacant, farmstead

SOUTH: "LI" Limited Industrial; county maintenance yard

EAST: "LI" Limited Industrial; vacant, commercial, industrial

WEST: "SF-5" Single-family Residential, SF-20 Single-family Residential, RR Rural Residential; flood control structure; residential, agriculture

PUBLIC SERVICES: Sewer and water services are not available, but are not needed for the proposed use. MacArthur carries an average daily traffic volume of 7,651 vehicles.

CONFORMANCE TO PLANS/POLICIES: The Board of Sedgwick County Commissioners, on November 10, 2000, approved the following regulations for C&D landfills. Pertinent site design requirements include:

- A. No operations shall be located closer than 500 feet of an occupied dwelling, school, or hospital that was occupied on the date when the owner first applied for a permit, unless the owner of such dwelling, school or hospital consents in writing. (There is a dwelling located north across 37th Street. Staff cannot verify if it is occupied; however the applicant's agent indicates that it is not occupied. If it is occupied, a waiver will be required.)
- B. Newly permitted C&D facilities shall maintain a minimum 150-foot buffer from the edge of the C&D landfill's property line. The County Commissioner may grant a reduction in the size of buffer required.
- C. Surface water drainage and control systems shall divert surface water away from areas where waste is present or from operational areas.
- D. Discharge of pollutants is prohibited.
- E. C&D facilities shall be reasonably screened from adjacent roads, streets, and commercial or residential properties except at points of ingress and egress, to a minimum height of 8 feet by the use of berms, walls, fences or plantings.
- F. Landscaping shall be maintained in proper order.
- G. Facility property and property within one-half mile from the facility shall be kept reasonably free of debris, litter or vectors resulting from the C&D facility.
- H. Access roads to the facility shall be all weather and negotiable at all times. Load limits on bridges and access roads shall be sufficient to support traffic generated by the facility.

Pertinent location restrictions include:

- A. C&D facilities shall not be located within the 100-year floodplain unless protected by flood control levees.
- B. C&D facilities will not cause significant degradation of wetlands.
- C. C&D facilities will not result in the destruction of critical habitat of endangered or threatened species nor contribute to the taking of same.

- D. The vertical separation between the lowest point of the lowest cell and the predicted maximum water table elevation shall be sufficient to maintain a five foot vertical distance between deposited material and the water table elevation.
- E. No permit for a C&D facility shall be issued on or after the effective date of this resolution if such area is located within 1 mile of an intake point for any public water supply system. The owner may petition the County Commissioners for an exception based upon proof of protection of the public water supply.

The Wichita-Sedgwick County Comprehensive Plan contains an objective that indicates it is appropriate to minimize the potential for environmental contamination while maintaining cost efficiency by proper management of the solid waste generated or disposed of in Wichita-Sedgwick County. Strategies that are appropriate include: reductions in the volume of waste generated by implementing educational programs and the establishment of community goals for recycling and composting, and encourage alternative waste management practices that are economically viable, cutting edge and environmentally sensitive.

The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "processing industry." Processing industry encompasses industrial uses associated with primary extraction, impacts associated with noise, hazardous emissions, visual blight and odor. The range of uses includes: aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards.

RECOMMENDATION: Not all land zoned LI Limited Industrial is appropriate for use as a construction and demolition landfill. In this case, the application area is sufficiently buffered for its current uses from other less intense uses in the area. However, the introduction of a C&D landfill, especially one 40 feet above grade, would not be appropriate for an area that has as much existing and proposed residential use in the general area. The larger area surrounding the application area has, in the past, been viewed as a somewhat older isolated residential area, but in recent years the area has begun to be viewed as an emerging residential area due to the increase in the number of new residential subdivisions being platted. While the immediately adjacent area is primarily industrial, a larger perspective of its vicinity shows a substantial amount of residential development. The emerging residential character of the larger neighborhood would be adversely impacted by this proposal. Based upon information available prior to the public hearings, planning staff recommends: Denial for the request for an extension of time for CU-403 to August 28, 2016, and Denial of the request for the C&D landfill.

However, if in the opinion of the planning commission the landfill request is appropriate at this location, approval should be subject to the following conditions:

1. Demolition and construction solid waste resulting from the construction, remodeling, repair and demolition of structures, roads, sidewalks and utilities as further defined in K.S.A. 65-3402(u) shall be the only landfill material permitted. Household solid waste, hazardous or toxic wastes, as defined by K.S.A. 65-3430 et. seq. shall not be permitted for disposal at this site.
2. The landfill operation shall obtain all applicable permits or licenses. Operations shall proceed in accordance with all conditions established by, but not limited to: the Kansas Department of Health and Environment (KDHE), Sedgwick County Public Works, Sedgwick County Environmental Resources, Sedgwick County Code Enforcement or any other agency having jurisdiction or oversight authority for the activities conducted on the application area.
3. The landfill shall not be open to the general public, however the landfill shall be open to solid waste collection vehicles licensed to collect C&D material. A landfill operator shall be on site during all hours of operations for the purpose of screening incoming loads for authorization, inventory of the type, size and quantity of loads, and direction of loads to the appropriate cells. Access to the site shall be prohibited except during the hours of operations.
4. A minimum six-foot high fence shall be installed around the perimeter of the site to minimize the blowing of any materials onto adjacent properties. The fence shall be either chain link or welded or woven wire with openings no larger than two inches.
5. A detailed grading/drainage plan shall be submitted to Sedgwick County Public Works for review and approval prior to commencement of operations. A copy of the approved grading and drainage plan shall be submitted to the Planning Department for filing with other case materials. The operation of the landfill shall be in conformance with the approved grading plan and drainage plan, and with the Site Plan. Landfill operations shall be staged as indicated on the site plan with only one phase in operation at one time. Prior to the opening of any new phase, the previous area shall be graded and seeded in accordance with approved plans and with at least 18 inches of clean cover material.
6. Material shall be piled no higher than elevation 1294 (height of the railroad tracks) or eight feet above existing grade as shown on Figure 5, Section A-A "Looking North." Setbacks shall be those established on the approved site plan.
7. Water and other forms of dust retardant shall be used as needed to control blowing dust from the site, especially from working areas and other areas where there is truck traffic.
8. The landfill shall be developed and operated in compliance with all conditions of approval. After a determination that a violation has occurred the Director of Planning and the Director of County Code Enforcement may declare this Conditional Use null and void.

If the Planning Commission finds that the request to extend the time period for CU-403 to August 28, 2016 is appropriate, then it is recommended that it be approved subject to all the original conditions of approval except for the date operations must cease.

The recommendations for denial are based on the following findings:

1. The zoning, uses and character of the neighborhood: The land immediately north, east and south of the application area is zoned LI, Limited Industrial. The land immediately west of the site is not zoned as it is developed as the Wichita-Valley Center Floodway. West of the floodway, land is zoned SF-5 Single-family Residential, SF-20 Single-family Residential and RR Rural Residential. The SF-5 zoned land has been platted as Gray's 5th Addition and Trinity Point Addition. Uses to the: north are residential, commercial and agricultural; east are railroad tracks, agricultural, commercial and industrial; south are the floodway and a Sedgwick County maintenance yard and west are the floodway, residential, school, church and vacant. The area east of the application area, south of MacArthur and west of West Street is a mix of residential, commercial and industrial uses. The existing commercial and industrial uses are generally clean, low impact uses that appear to generate little if any noise, dust or visual blight. Uses further to the north, east and west are a mix of residential

and commercial uses. Another new residential subdivision has been platted north of MacArthur, just east of the floodway – Blue Lake Addition, while Angel Falls Addition was platted east of West Street, south of MacArthur.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LI, Limited Industrial which permits a wide range of economically viable uses by-right. The base LI permitted uses are suitable for the site given the existing and proposed uses and zoning surrounding the site. The site also permits rock crushing, concrete and rock recycling and soil extraction on a portion of the application area until August 28, 2006, and soil extraction until 2012 on another portion. A variety of LI permitted uses are possible with the site's current zoning.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this request will introduce a use that can significantly negatively impact existing and proposed nearby uses. While in use, C&D landfills can significantly increase the number and or frequency of truck trips that can significantly increase noise and dust generated from the site. Existing C&D landfills in other parts of the city have created significant increases in the amount of fugitive trash and debris. Finally, the stacking of waste building materials to a height of 40 feet above grade will be intrusive to an area that is essentially flat except for the levies of the floodway and the railroad right-of-way. A landfill in this location will negatively impact the sale of existing residential lots and the creation of new residential lots in the surrounding area.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request would provide a fourth C&D landfill in the Wichita area, which should provide increased convenience for customers and competition for other landfill operators. However, approval would likely negatively impact the emerging residential area located north (Blue Lake Addition), east (Angel Fire) and west of the floodway (Gray's 5th and Trinity Point additions). The positive gain that the emerging residential uses represent to the public far outweighs the limited gains approval of this request represents. Denial presumably would be a loss of economic opportunity for the applicant, and to a limited universe of C&D customers in terms of convenience and competitive advantage.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" depicts this site as appropriate for "processing industry." Processing industry encompasses industrial uses associated with primary extraction, impacts associated with noise, hazardous emissions, visual blight and odor. The range of uses includes: aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards.
6. Impact of the proposed development on community facilities: Truck traffic could increase along MacArthur.

MOTION: To reduce time for the public here today to provide testimony to three minutes instead of five minutes.

WARNER moved, **DOWNING** seconded the motion, and it carried (11-0).

All Planning Commissioners stated they have been contacted prior to the public hearing today.

DALE MILLER, MANAGER CURRENT PLANS DIVISIONS I am going to go through the slides because it will display what they are proposing rather than me trying to verbally describe it. There are some modifications that the applicant is requesting that I need to go over as we go through this. There are two older cases, CU-403 and CON2002-12 that already exist, and the applicant is requesting for an extension of time.

There is a Conditional Use (Case #CU-403) for rock crushing and soil mining. A portion of that area was platted, but not all of it. The stockpiles are limited to a height of 25 feet and the applicant is allowed to continue that use until August 28, 2006, and the applicant is requesting to extend that time to August 28, 2016.

The Conditional Use (Case #2002-12) for soil extraction is allowed to continue until May 15, 2012, and the applicant has indicated that if this is approved they would like to get all three of these application lined up so the deadlines are all the same, the proposed date for all three would be May 15, 2012, which is different from what is written in the staff report.

Exhibit B basically shows the plat and how it sits on that original Conditional Use (CU-403). The CU is much larger and they platted this portion (pointing to a map). There is an existing building that is on the property and you can see the excavated areas clearly on this aerial.

Exhibit C shows a proposed lot split, if approved. This line (pointing to the map) would be the northern limits of the landfill. This area would remain, assuming the extension is granted, and would be the rock crusher, but from this area south would be the area that would contain the C & D Landfill.

The following slides are showing the proposed landfill layout, existing site plan and existing survey. If this is approved they will need to relocate a floodway reserve and a utility easement, and those are things that can be accomplished outside this application. They will have to vacate and re-dedicate easements to make that work.

The applicant originally proposed fill that would be as high as 40 feet. They have since amended the request and they are willing to stop at 25 feet. That is different from what is in the staff report.

They do have a landscape plan, that is Figure 3, that shows once it is completed, and the final cover is on, they will plant it with native type shrubs, trees and grasses, and it would look like a hillside once completed.

Figure 4 is a little blurry but it does give a better view of the larger area and it gives individual calculations for how large each phase would be.

Figure 5 shows the existing floodway with the high banks. (Pointing to the figure) This was the 40-foot tall landfill area. That would be the railroad tracks and the bed that it sets on. To the west would be the land and the subdivision to the west of the Big Ditch, and over here would be the Limited Industrial zoning that goes out to West Street.

In the staff report, originally at the 40 foot height level, basically if you were at the high point to the west of the Big Ditch, I don't know any other way to described it, but if you lay on the ground and look straight across the top of the high bank of the Ditch, what you would see above is approximately 28 feet of fill area that would be exposed above the high bank. Obviously, if you were in a house or on the second floor you would see more because of the angle. With the reduction of height they are proposing, I am estimating that would drop it down to the 14-foot level that would be visible above the high bank of the Ditch.

On page 4, under conformance to plans/policies, condition (a) states, "There is a dwelling located north across 37th Street." That is an error, and should be changed to Oak Street." Because I was describing the house south of MacArthur that would be the closest home to the northern boundary and it is over a 1,000 feet away, and somewhere else in this report it says it is only 400 feet away which is incorrect."

Staff is recommending denial for the request for an extension of time for CU-403 to August 28, 2016, and Denial of the request for the C & D landfill.

HILLMAN What is the height of that concrete building?

MILLER I am not sure. I am being told (by someone in the audience) 20 feet.

ALDRICH On the floodway right there even lowering the height from 40 foot to 25 foot and then building up the floodway bank right there, what effect would that have on the floodway area? Would that create a problem?

MILLER They are required to stay 150 feet away from their property and the high bank would even be beyond that, so it could be as much as 190 feet from the east high bank to where the landfill would actually start. They will have to submit a drainage plan.

DUNLAP Is this "LI" Limited Industrial zoning there because it was requested to be industrial zoning? If so, how long ago was that? That area that has been platted on the north side there, do we know why it was platted the way it is?

MILLER That is an old plat from 1950's.

DUNLAP Was it industrial zoning at the time that it was platted?

MILLER As far as I know that area has always been Industrial.

DUNLAP It is similar in nature in what we have been facing along the railroad tracks down here?

MARNELL In the recommendation for denial, CU-403, in addition for the C & D landfill, would you elaborate a little more on that?

MILLER That is the rock crushing permit and it is scheduled to expire on August 28, 2006, and based on the premise, in staff's opinion, this is an emerging residential area, then it probably makes sense for uses to be less intensive; those that require Conditional Uses to be allowed in the "LI" Limited Industrial zoning to minimize their visibility and try an transcend to less noisy or potentially noxious uses.

JOHNSON Have there been any complaints about the rock crushing activity in the past?

MILLER We have not received any in our department but the appropriate place would be to call County Code Enforcement.

JOHNSON Did anyone check with them?

MILLER I did not think to ask them that specific question.

MILO M. UNRUH, Jr., Attorney at Law, 300 W. Douglas, Ste 300, Wichita, KS 67202 I represent the applicant, Mr. Snook, who is part owner of Bergkamp Construction, and they have been in business for over 50 years, and he is very familiar with the operation and area, the current uses, and proposed uses. Also here today is Katheryn Rocky from Terracon, she is the person who is responsible to the applicant to ensure the permitting processes are faithful followed.

In response to the question if Mr. Snook has received any complaints, we are unaware of any complaints over the past 10 years of our rock crushing operation. We are not aware of any complaints to MAPD or Sedgwick County Code Enforcement.

In an effort to address the concerns that were expressed by the members of the Planning Department we are willing to reduce the height level by over 1/3 from the 40-foot above elevation to the 25-foot. That would be consistent with the current height limitation that this Planning Commission granted on the materials under the rock crushing operation.

We have also are willing to make all three deadlines to be the same day for the rocking crushing and the C & D landfill to May 15, 2012, which is the current date that CON2002-12 is set to expire, so all three operation would expire on the same day.

There has been a substantial amount of work that has already taken place to make sure that this operation would be viable. We will comply with all state, local, county and city regulations that would be enforced with regards to the operation in question. Mr. Snook believes that given the current situation, and the locations of the C & D landfills that have been approved by this Planning Commission that there is a niche in the particular area which he has been involved in for over 30 years. He believes this landfill will

provide more competition to the existing three C & D landfills, convenience for the people that would come to the landfill in this particular landfill.

This area has been zoned "LI" Limited Industrial for many, many, years. It has not been altered, modified. The land on the north, east and the south surrounding the site is all "LI" Limited Industrial. The floodway is not zoned but you can see that is roughly a 1,400 foot wide buffer on the west of the site, and on the east we have the railroad which form a boundary and buffer.

Access will not be changed. Access will be on Broad Street to the area. Most traffic will come down West Street, going north or south, turning to the west on MacArthur and using Broad Street in the facility and for operations.

The permitted uses, per the staff report, of rock crushing, recycling and soil extraction are suitable for this site. The C & D landfill, as proposed, is a logical extension of both permitted uses because we get concrete, asphalt, and it is suitable with the "LI" Limited Industrial zoning.

What is very important, in our view, is the "2030 Wichita Functional Land Use Guide" that was presented by MAPD specifically said this site as appropriate for "processing industry." The "processing industry" that we are speaking of indicates that it encompasses industrial uses associated with primary extraction, impacts associated with noise, hazardous emissions, visual blight and odor. The range of uses includes: aggregate and concrete plants, refineries, slaughterhouses, rendering and primary agricultural processing plants, salvage and recycling yards. We are of the opinion that the proposed use that we have in mind will be less intrusive than the "processing industries" that are specifically cited by the Planning Department all the way to 2030, keeping in mind that in that same document they also recognize a residential development that will be taking place to the west and some to the north. So when the 2030 document was prepared these types of situations were taken into consideration and the specific site was noted suitable for processing industry.

It is our best estimate at this time that if we are able to proceed with the C & D landfill, we would hope to capture about 20% of the market, given the location, and situation of the other (3) permitted C & D landfills. On an average daily basis there would be an additional 10-12 trips. Access to a major arterial street is already there. The noise will not increase from the current operations that we now have in place. Trash has been addressed with the fencing proposed by the MAPD staff.

I also want to make specific note as Mr. Miller indicated, the operations will be in (3) phases. We are not doing covering the entire acreage. We have Phase 1, which covers 4.8 acres, when we are finished with that it will be filled, covered, and planted with native grass and shrubs. Then we move to Phase (2), which is the application that is 15.8 acres and we go through the same process. Phase (3) will be 20.6 acres so the total area will be about 40 acres.

Concluding I would like to address the concerns expressed by the MAPD staff as to the residential development. Whatever we propose we will probably never satisfy the concerns of the residences, particularly those west of the floodway. It does not mean that we are not mindful to their concerns, because we are, and one of the matters that concerned the staff in which we attempted to address was reducing the elevations by over 1/3 to the 25-foot. It is clear that currently this is a mix of industrial, commercial, rural residential, residential, farm ground and industrial uses. In this area we have DeBruce Grain, the trash transfer station, the Sedgwick County Maintenance Yards and Mr. Snook's operation. It is a mix and it is going to be a mix for a long, long, time. When the residential development occurred those operations were there, and we believe the fact that right now with those operations in place, people are buying, developing and platting, knowing full well what that current mixture is.

Just to the north of the site there is a new development of Blue Lake. These homes are advertised in the \$150,000 range, right next to an asphalt plant. They have to drive past the asphalt plant. Those people are not hesitant to develop.

ALDRICH What measures will your client take to ensure that there is not debris blowing around.

UNRUH The fencing requirement is satisfactory as it is in the staff report. We also discussed a bullpen approach.

JIM K. SNOOK, 14800 W. Maple, Wichita, KS 67235-8747 The bullpen approach is when we bring our trucks to stop there are several different handling procedures that have to go on with a C & D landfill, with sorting, and inspection. If you have, say a driving range next to residential places, we will build a bullpen with a hard surface thing as we sort different types of items that are allowed. There are some items that are not allowed in a C & D landfill that we will have to physically sort through, and put in a thing like short telephone poles and use netting inside of it like you would at a golf course, like out there at Sports World next to a residential area. We will build that up and have it where trucks can go in and out of there and help maintain traffic.

HILLMAN You already have done some digging and some soil removal in this area, correct?

SNOOK Correct.

HILLMAN Your down to the water table as I noted in the picture, correct?

SNOOK That is incorrect, that is not ground water.

HILLMAN How far down have you gone?

SNOOK I think we are down to 8 feet.

HILLMAN Are you into sand?

SNOOK No, that is an amazing structure of soil there. When we covered up Chapman down on Hydraulic and MacArthur, years ago we actually went into the floodway, and they wanted some work down for the City of Wichita, and there is a heavy seam of clay

up at our offices and north of MacArthur Road the soil changes. There is some sandy soil but most of it is very tight clay soil. We have had groundwater monitoring wells in there for a little over (1) year, and we are at least 5 feet above the water table.

HILLMAN That is great as long as you are taking things out of the area. I think we are here looking at the future, things that you might be putting into the area. Does Terracon or whomever you work with plan on putting in a liner or a double liner, monitors? What is your plan?

SNOOK The monitoring wells are there already and we have wells that are there.

HILLMAN I understand that, but quite often they put in monitors between the double layers of a collection container so that they can detect leaks prior to getting whatever you put in there into the ground.

SNOOK That is not required in a C & D landfill; that is more of a sanitary landfill application.

BISHOP Are you currently doing C & D land filling in that area?

SNOOK No.

BISHOP How about tires? I am referring to the Department of Environmental Services memo. It says there appears to be a C & D landfill operation in place on the parcel of land for the proposed conditional use. There are numerous piles of what appears to be C & D waste. There appears to be additional waste, including a great pile of waste tires, being land filled.

SNOOK I save all my old scraper tires. We have a lot of tires; a lot of them are still good, and old scraper tire we keep around. A lot of those have been sectioned.

BISHOP So they would not be land filled?

SNOOK No, they are not allowed in a C & D. We recycle concrete and asphalt, and we extract earth from that area. On different types of soil from different jobs all through the City we will have some rubble that will not go right into our first pile of processing material, and as we have time throughout the year we use shaker buckets and backhoes and we clean the soil out of it when we have time. We don't do it on a continual basis because we are not working in there 100% of the time. Most of our product is a tar material that all the paving companies use and we use it for road base for the City of Wichita.

BISHOP To clarify, your attorney stated there has not been any Code Enforcement activity on the part of the County, is that correct?

SNOOK I have not been aware of a Code Enforcement problem.

ALDRICH What about the standing water, but given all the rain that we have had lately where did the water come from?

SNOOK Most of that water has come from the runoff. That clay soil down there is so tight. You can see how it has receded. It was 3-4 months ago; we pump that down periodically, that pit on the west the material that came out of there was material for the Cessna CT Citation project, the big Service Center, and we got some rains after that. It doesn't evaporate out of that pond.

MARNELL Have you seen a copy of this memo from the Department of Environmental Services?

SNOOK No.

MARNELL Why wouldn't this have been provided to the applicant?

MILLER We got that memo this morning to distribute to the Planning Commission. They are on the table in the hallway.

Robert W. Kaplan, Attorney at Law, 430 N. Market, Wichita, KS 67202, I am representing Gray Construction. We believe this is going to be a serious impairment to his existing and his future development of residential housing in the area. We have reviewed the area to determine the advisability of a C & D at this site, and the continuation of the operation approved many years ago before this site became predominately residential. These areas are platted preliminary or final platted and slated for "SF-5" Single-family development, in the price range of \$150,000+.

This proposal of a landfill is the wrong project, the wrong place, and at the wrong time. Certainly there is some potential loss to the applicant. He will have to look elsewhere if he wants to do a C & D landfill. He has however had many uninterrupted years, assumed profitability with the crusher. The "LI" Limited Industrial zoning district provides him many opportunities for alternative uses. He can relocate. These homeowners and developers cannot relocate. The area that was talked about 10 years when the rock crusher was approved is not the area that we have today.

In order to balance the equities you are going to consider the hardship, which is imposed on the applicant, in contrast to the detriment to my client who also operates a business, Gray Construction and to the many existing and future residences of the area. The rock crusher and C & D landfill can be relocated. This is not the area that it was when that obligation commenced. We request this application be denied.

BILLY GRAY, Gray Construction, 204 N. WoodChuck, Wichita, KS 67212 (Set-up large demographic boards/display for the Planning Commission to review while he spoke). I have been developing property in this area since 1985. I started out with Wheatland Place 5th Addition. Since 1985, there has been lots of activity to this area. I have done about 750 homes, and another 400 homes done by others in the area, there is probably another 60-70 homes here in Angel Fire, and another development of about 300 homes. I am currently working on Trinity Pointe Subdivision. We are in the preliminary phase at this point. We are developing a 25-acre park here, so there will be park all along there.

When I started Trinity Pointe, sewer capacity was questionable. The City of Wichita didn't have the sewer capacity to allow these areas. We gave the City of Wichita this parcel here beside the park so they could build a massive lift station and put it across the Big Ditch, which we shared in cost in order to provide sewer system for all these homes here.

I do not believe my developments will be as successful if this C & D landfill is approved. Right here is a picture in the center of my subdivision Trinity Pointe taken from the center of my subdivision looking at my houses and looking at the applicant's area in the background. You see this gray area right here, we took this picture of a C & D landfill to show you the kind of material that will be put into a C & D landfill. This is at Brook's Landfill. This right here is based on his 20-foot level, and is architectural drawn to scale depiction of what his mounds will look like.

We are up on a hill and you can see all of Downtown Wichita and Boeing, you can see a great distance. I don't think this C & D Landfill will be very accommodating to these homeowners.

JIM WOOD, New Home Marketing, 9103 W. Central, Wichita, KS 67212 I have been in this business for about 30 years, and I represent about 21 subdivisions all over the City of Wichita, about 8-9 developers, and about 35 builders. I am representing today a subdivision that is opposed to the C & D Landfill, and is located approximately one mile from the proposed landfill. This subdivision is a water community. There are 266 lots, "SF-5" single-family homes. About 100 homes will be on the water and the balance off the water. Currently we have sold about 43 lots. There are 17 houses going up. The C & D Landfill will be very detrimental to the newer developments out there, and several homeowners that are living there.

PATRICIA YORKINSON, PRINCIPAL OATVILLE SCHOOL, 4335 S. Hoover, Wichita, KS 67215 I am also a homeowner in the area. The Oatville School is located within 1/2 mile, directly west of the proposal of the rock crushing plant and landfill. Our school is in the middle of a bond project. We are building over a \$1 million project. I have been the principal since 1990, and we have seen the enrollment increase from 150 students to currently 380. I feel this application will be very detrimental to our school, and the community around there. We already see dust and debris flying from the rock crushing plant and we have outdoor playground time that we are already experiencing a lot of problems with that.

MARNELL Would you point on the map where the school is located.

YORKINSON The school is about 1/2 mile away from the landfill. Our school has really benefited from the Trinity Pointe Subdivision and the growth to the area there.

RANDY MCCARTY, 5924 W. KEMPER, WICHITA KS 67215 I own property here in the Trinity Pointe Subdivision. We are homeowners. When I get my newspaper in the morning I look over there and see the crusher every morning, and I have watched it develop. The school has grown, and the entire area has grown and the area is a real asset to the community. I oppose any more industrial operations in our area.

PATRICIA HELMUTH, 4552 W. MACARTHUR, WICHITA KS 67215 I live directly across from the rock crusher, and I built a screened in porch towards the south before the rock crusher came in. I can't bring my mother from the nursing home to sit out on the porch and have some fresh air because it is just dirt. The wind blows from the south, and it comes right into my house and that is what we breathe. The sample of dirt in the jar I brought today for the record is from my sweeper, and that is just powder. I oppose the rock crusher and I opposed it from the beginning.

MIKE SHETLAR, 4522 DORIS CT., WICHITA KS 67215 My house is right here. My backyard will be directly across from where this is going to take place. I would not have bought this home a year ago and spent \$200,000 if I would have known there was going to be a dump in my backyard. I am strongly opposed to the landfill. He can located somewhere else.

ERNEST WEBB, 5501 W. 44TH ST. S., WICHITA KS 67215 If this application is approved it will cost millions of dollars to the residences circling the project that they propose. Mr. Gray will not be able to complete his addition as he started it if they put this C & D here.

JENNY MORRIS, 338 W. 35TH S, WICHITA KS 67217 My husband and I plan to build a house in about 3-4 years. We have looked at a lot of other developments, and I can tell you that for this price range Mr. Gray builds a better house then just about anybody. The lots are a nice size, and we have friends that live in the area and they were very pleased with Mr. Gray. There will be a lot of trucks and debris on the road. Currently we live in a mixed-use area. Frankly if you put the landfill in I am not going to tell you that we will not buy there, we will re-evaluate because these house are priced at \$150-\$200,000 price range, and I have misgivings about buying a home that overlooks a landfill.

FRANCIS WHITE, 4528 W. MACARTHUR, WICHITA KS 67215 Currently I live across the street from this rock crusher. Everything in my house is dusty. I have vents for my attic fan and I have to keep them blocked off because of the concrete dust. I am opposed to the landfill.

MELODIE MCDONALD, 4448 DORIS CT., WICHITA KS 67215 I have one window in the front of my house and I have 10 windows and a deck. I don't really want to look outside and see the beautiful mountain of trash. When we bought there we knew about the light industrial operations, but if we knew about a possible dump in our backyard there would have been no way that we would have built our dream house there. This landfill will eliminate revenue from the City of Wichita in taxes alone.

KATHY PERRY, (no address, did not sign in or state behind the podium) My husband is an Environmental Engineer. We have been living here less than six months. We would not have moved there. I have four children with me today and they are our children and we like to have our windows open and they would be breathing the air. Please deny this application.

PHIL BRESSLER, 5314 W. 44TH CT. S., WICHITA KS 67215 I live north and west from this blue house, and from my back deck I can see over that back deck so that mountain of trash looks pretty small until you stand on my deck and you can see most of it. We

did not move here to see a dump located in the same area. I am an Assistant Principal of Campus High School. Our school district has passed a huge bond issue to build schools based on projected growth and a landfill will reduce the growth of our community and Haysville. I don't want this in my backyard.

DAN HEDLINCOLN I just bought a house in the older part of the development. If I had know there was going to be a landfill or even knew more about the rock crusher I would not have bought there.

VICTOR LEIS, 4601 S. WEST STREET, WICHITA KS 67217 I live close to the rock crusher. I am concerned about the debris and the trash trucks and stuff that comes off their trucks and blow in our yards. Even though the trash trucks have nets on them stuff blows out.

MILO UNRUH I would like to state for the record that this Environmental Service memo is not signed, and does not say who the staff person is that wrote it, and we were not aware of this memo until 30 minutes ago. I think it is unfair and untrue. It contains misstatement of facts, it is dated April 17th, three days ago, and we are just now informed of it and I think it is unfair to my client.

We have presented our facts, and we presented that people have moved into this area with that current mix. We believe this use is appropriate. The zoning says it is appropriate. The MAPD when they were looking into the future, specifically, they could have picked 100 sites, but they didn't, they picked my client's site. If you will look at that map the only site selected is my client's. There must have been a reason for it. It was not picked out of the clear blue sky, and that was with knowledge in their own map for the next 25 years of the contemplated residential development around that site that is the planners, and we ask you to take that into consideration.

MOTION: To deny the C and D Landfill and extension of time for CU-403 to operate a rock crusher and to conduct sand and gravel extraction.

ALDRICH moved, **BISHOP** seconded the motion.

JOHNSON Does that include the extension of the rock crusher operation? I want to give my opinion of the rock crusher. I have been on the MAPC long enough, and I can still remember the case, and there were quite a few limitations put on that and that is why I asked if there had been any formal complaints about any conditions that we put on that. I have not heard any testimony from staff or the public that there have been official complaints. That is not a landfill, it is a recycling operation, and has been there. There has been tremendous development of new homes in the area with it setting there. I am curious if the applicant is willing to give up all that as well as the landfill? I am open for discussion on that issue.

MARNELL I am not going to base any of my decisions today on a memo that didn't go to the applicant, and showed up here unsigned, and was dated three days ago. I don't care for that kind of tactic. It looks to my like something may have been approved and appropriate at one point in time. But, I look at those pictures of the dust from the rock crusher, and the nature of this area has changed, it was primarily industrial but it looks to me like the prevailing south winds those folks to the north are getting an extreme amount of dust. I still did not hear the answer to Commissioner Johnson question about the extensions.

ALDRICH Yes, I would include denial of the rock crusher, and sand and gravel extraction extension's, CU-403 and CON2002-12.

BISHOP Approve the amended motion.

DUNLAP We have seen significant development in this area, which is something that, we, the Planning Commission who established that 2030 plan, one of the problems that we have had is a problem we refer to as site-built housing. We have had a stigma to the southwest area of manufactured housing or mobile homes, or mobile home parks and there are some more restrictions they are proposing on those parks. I will support the motion to deny both the extension and the C & D Landfill. Because I think this is an upgrade for the community, and the total area.

MARNELL This is kind of a three-part thing with the C & D Landfill, extension of time for the rock crusher, and then an extension of time for the sand and gravel extraction. I have a problem with the third one of those three, but the sand and gravel extraction is a separate issue.

MILLER The soil extraction is not part of your consideration; that will go forward because that was not asked to be amended. The only issue is whether or not you are going to extend the time frame for the rock crusher and whether you will approve the C & D Landfill.

WARNER Was it the request of the applicant to extend the time? The proposal is to extend the time for the rock crusher?

MILLER Yes, for CU-403, that is the one that allows the rock crusher. The CON2002-12 to conduct sand and gravel extraction, is separate, it has a time frame to allow it to go to 2012 currently.

MARNELL But you have it on the staff report asking for an extension of time for that one as well, is that incorrect?

MILLER The only request is for extension of the rock crusher (CU-403), they were trying to line up the deadlines, that if it was approved they wanted them to end at the same time.

JOHNSON How did staff look at extending the rock crusher time?

MILLER We felt if the Commission felt that this was an emerging residential area, that it is probably appropriate to start winding down on some of the uses that require additional approvals like a rock crusher or landfill, that is why we felt it was not appropriate to extend the time frame.

MOTION carried 11-0.

6. **Case No.: ZON2006-11** - Richard and Mary Jo Hill Request Sedgwick County Zone change from "RR" Rural Residential to "GC" General Commercial on property described as;

The West three acres of a tract beginning at a point on the North line of the Northeast Quarter of Section 35, Township 28 South, Range 1 East of the sixth principal meridian, Sedgwick County, Kansas, said point being 776.52 feet West of the Northeast corner of said Northeast Quarter; thence South 330 feet; thence East 718.82 feet to the West line of A.T & S.F. Railroad right of way; thence Northerly along said right of way line 337.5 feet to the North line of said Northeast Quarter; thence West 648.07 feet to the point of beginning. Generally located on the southeast corner of 63rd Street South and Oliver, approximately 400 feet west of K-15

BACKGROUND: The applicant requests a zone change for the subject property from "RR" Rural Residential to "GC" General Commercial. The subject property is located at the Southwest corner of K-15 and 63rd Street South, approximately 280 feet west of the K-15 right-of-way and is developed with a single-family residence. Also, the subject property lies within the "A-O III-S" Airport Overlay District. The applicant has offered a Protective Overlay limiting the range of allowable "GC" uses, which has been incorporated into the staff recommendation.

The surrounding area is characterized by commercial and residential uses. The property to the north, across 63rd Street, is zoned "GC" Limited Commercial and developed with self-service storage and outdoor vehicle and equipment sales. The subject property is bounded by the new Oliver Street extension along its west and south boundaries. Just east of the subject property is a set of Burlington Northern Santa Fe (BNSF) railroad tracks. The properties to the west and south are zoned "RR" Rural Residential and are developed with single-family residences and agricultural uses. The property to the east, across K-15, is within City of Derby municipal boundaries and is developed with a variety of commercial and industrial uses, including a Lowe's Home Improvement Center.

There is an issue here with the proximity of the property to the BNSF railroad tracks. Eastbound vehicles that are stopped for the railroad crossing could block westbound drivers from turning south into this property. With the traffic volumes here, westbound vehicles could be stacked back through the railroad crossing and crossing gates. Forcing the left turns to the new Oliver Street will increase this stacking distance and provide maximum safety. At the request of County Engineering, this requirement is incorporated into the Protective Overlay as a condition of platting.

The Derby Planning commission heard this case on April 6, 2006 and unanimously approved per staff recommendations with two minor modifications. First, they recommended that Item #8 of the Protective Overlay be revised to require compliance to the City of Derby Sign Code. Second, they recommended striking Item #9 of the Protective Overlay. The subject property lies within the City of Derby platting area, so the plat will be required to comply with their Subdivision Regulations.

CASE HISTORY: The subject property is unplatted

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Office, general
SOUTH:	RR	Oliver Street right-of-way; agricultural
EAST:	RR	Single-family residence
WEST:	RR	Oliver Street right-of-way; single-family residence; agricultural

PUBLIC SERVICES: The subject property currently has access only to 63rd Street, a four-lane principal arterial with traffic volume of approximately 7,400 vehicles per day. Current traffic volume on K-15 is approximately 26,000 vehicles per day. Traffic counts are unavailable for the applicable portion of Oliver Street. The subject property is not served by municipal water or sewer utilities.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan. This site is identified by the McConnell AFB Joint Land Use Study (JLUS) as being within the 80 dB noise contour of the "Maximum Mission Area" and as such, recommends strict adherence to "A-O" Airport Overlay District provisions.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the rezoning to "GC" General Commercial be APPROVED, subject to platting within one year and the following Protective Overlay:

1. Allowable uses shall be limited to those allowed by right in the "LC" Limited Commercial zoning district, plus the following uses allowed by right in the "GC" General Commercial zoning district: vehicle and equipment sales, outdoor; storage, outdoor; warehouse, self-service storage.
2. Proposed uses other than those specified in Item #1 shall be allowed only by way of Conditional Use Permit or Protective Overlay Amendment, as specified in the Unified Zoning Code.
3. All development shall comply with Art. III, Sec. III-C.5 ("A-O, McConnell AFB Airport Overlay District" standards).
4. The applicant shall dedicate access controls at platting limiting the subject property to one right-in/right-out access onto 63rd Street, which shall be located a minimum of 75 feet east of the new Oliver Street.
5. The applicant shall dedicate access controls at platting limiting the subject property to two access points onto the new Oliver Street, the north of which shall be located a minimum of 75 feet from 63rd Street.
6. No structures shall be permitted that exceed two stories and/or 25 feet in height.

7. All proposed lighting shall comply with Art. IV, Sec. IV-B.4 of the Unified Zoning Code. No proposed pole lights (including base, standard, and fixtures) shall be taller than 14 feet. No pole lights shall be located within any of the building setback areas.
8. All signage shall comply with Sedgwick County Sign Code, except:
 - a. No rotating signs or signs with flashing lights shall be allowed.
 - b. No portable signs, off-site signs or billboards shall be allowed.
 - c. Only one freestanding sign shall be allowed, which shall be allowed on 63rd Street, and shall not exceed 30 feet in height and 128 square feet of sign area.
9. The site shall comply with all applicable landscape/screening provisions and Compatibility Standards of the Unified Zoning Code.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The "GC" zoning request is located across the street from approximately 35 acres of existing "GC" zoning to the north, which contains a retail store, trailer sales, self-storage units and outdoor storage of vehicles. Single-family residential and agricultural uses zoned "RR" Rural Residential make up the balance of the surrounding properties. However, uses to the east are considerably more intensive: railroad tracks, K-15 Expressway (a divided four-lane facility), a Lowe's Home Improvement Center and a mini-storage.
2. The suitability of the subject property for the uses to which it has been restricted: This site is located beneath the southern take-off and landing approach of McConnell AFB's runways. Because of the height of aircraft above this site when taking off or landing, uses located on this site experience considerable noise and vibration. Therefore, the County included this area in the Airport Overlay District III South. The "A-O III" designation places use limits on nonresidential uses and limits residential uses to a density no greater than one dwelling per 40,000 square feet. Furthermore, this site is identified by the JLUS as being within the 80 dB noise contour of the "Maximum Mission Area." As such, the JLUS recommends strict adherence to "A-O" Airport Overlay District provisions. With the restrictions placed on the site by the Protective Overlay, the proposed "GC" zoning would allow nonresidential uses that comply with "A-O" District restrictions and JLUS recommendations. Also, the site location at the corner of an arterial and an expressway is an ideal location for commercial uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The subject property is just west of railroad tracks and the K-15 Expressway and just south of other commercial uses. The Protective Overlay, in combination with screening and landscaping requirements should eliminate any potentially negative impacts to adjacent property owners. The applicant has submitted a letter (attached) from the adjacent property owners to the east stating that they have no objections to the proposal.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Local Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. As recommended for approval, the request conforms to the Land Use Guide and Commercial Locational Guidelines of the Comprehensive Plan.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated as recommended for approval. Infrastructure concerns will be addressed at platting.

DOWNING There was recognition in the staff report and a letter from the Derby Planning Commission requesting recommendations #8, & #9 be changed since this is this application is located within the Derby Zoning Area of Influence, I would like to make a motion with the changes Derby Planning Commission requested.

SCOTT DUNAKEY I have spoken with Bob Parnacott with County Law Department about the Derby recommendations, Mr. Parnacott has suggested to not reference or attach the Derby Planning Commission/Department because of the possibility of an enforcement issue.

DUNLAP I would like to hear the Derby recommendation.

DUNAKEY Basically, adding to Condition #8, a Letter (c) to state: No pole signs shall be permitted. Also adding to Condition #8, a Letter (d) to state: Only one (1) monument sign shall be allowed, which shall be allowed on 63rd Street, and shall not exceed six (6) feet in height and 15 feet in width.

Condition #9 would have several changes these requirements will be significantly more burdensome to the applicant.

The site shall comply with all applicable landscape/screening provisions and Compatibility standards of the Unified Zoning Code, except:

- a. The applicant shall provide an irrigated street yard at least 10 feet in width adjacent to all street frontages.
- b. The street yard shall be landscaped with one (1) shade tree or two (2) ornamental trees per 500 square feet of street yard area.
- c. Parking areas in front of the primary structure shall be screened with a solid shrub row or hedgerow with a minimum height of three (3) feet.
- d. All abutting residential uses shall be screened with a solid screening fence or wall of six (6) feet in height.

WARNER Does the applicant agree to the recommended changes?

MARY JO HILL, 6701 Maple, Wichita, KS 67209 Approximately two years ago there were street improvement by Sedgwick County that took a good portion of our land. At the current time our land is "pie-shaped" meaning we have roadway on three sides of four. The City of Derby would like to impose their landscaping provisions, and it would be very expensive to landscape a lot that is 1.72 acres of totally exposed roadway. This may also impose a hindrance on any purchaser that would like to put commercial zoning on that lot.

WARNER Therefore, you are not in agreement with the recommendations?

HILL I understand that is what they are requesting. I would like to have the "GC" General Commercial zoning approved, and we will comply with whatever needs to happen but it will create a hardship for us because we have already lost 1/3 of our property, and this additional cost will be burdensome.

ALDRICH Were you compensated for the 1/3 loss of your property?

HILL Yes, we did. We planned to use the compensation in our retirement years and not spend it on the lot.

DOWNING I will agree or admit that the City of Derby landscaping requirements in the Derby area is probably more strict than Wichita or some other places, in fact some of our Commissioners have done work there and can attest to this, but I think in an effort to make our community as nice as we can.

MOTION : I would change the recommendation to add Condition #8 and Condition #9 to that which has been provided and has been read from the podium.

DOWNING moved, ANDERSON seconded.

MARNELL I am not going to support the motion.

MOTION carried (6-5).
(MARNELL, SHERMAN, JOHNSON, DUNLAP, HILLMAN opposed)

JOHNSON Having the opportunity to do some work in Derby, I am all in favor of the landscaping plan but dealing with them and the way that they approach what they require I think they need to make a change in what they do and look at a plan rather than putting a tree every 20 foot on a right-of-way. I have expressed that opinion to the Derby Planning Commission in the past.

DUNLAP I am opposed because of the Protective Overlay regarding the signage. When we do what we just did and restrict the signage to the level that is proposed here it eliminates a lot of potential commercial customers for that property who require signage as an element of their site selection.

MARNELL I would appreciate if Planning Commissioners have these opinions would express them before we actually vote on the item because it might influence how I might vote on an item.

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7. **Case No.: CON2006-10** – Lyndell Shoemaker, Brian Westerfield Request Sedgwick County Conditional Use for accessory apartment, on property zoned "RR" Rural Residential on property described as;

Lot 10, Wildwood Acres an Addition to Sedgwick County, Kansas. Generally located On terminus of 73rd Circle North, approximately 800 feet east of Hillside and 1/2 mile north of 69th Street North

BACKGROUND: The applicant seeks a Conditional Use to permit an "accessory apartment" at 3504 East 73rd Circle North, a platted lot containing 5.33 acres. The site is developed with a residence served by a lagoon. The applicant proposes to install a 24 by 24-foot accessory apartment that will be attached to a 24 by 24-foot garage. The accessory structure is to be located to the rear of the principal structure, and complies with applicable setbacks. See the attached site plan for more details.

The application area is located in a smaller residential subdivision that is still being built out. All adjoining property is zoned "RR" Rural Residential.

CASE HISTORY: Willow Acres Addition was recorded in 1999.

ADJACENT ZONING AND LAND USE:

NORTH: "RR" Rural Residential; residences or land platted for residences
SOUTH: "RR" Rural Residential; residences or land platted for residences
EAST: "RR" Rural Residential; agriculture
WEST: "RR" Rural Residential; residences or land platted for residences

PUBLIC SERVICES: The property is located on 73rd Circle North, a two-lane local road with 35 feet of half-width right of way. 73rd Circle North connects to Hillside, which is a paved section line road. The property utilizes an existing lagoon for sewage.

CONFORMANCE TO PLANS/POLICIES: The *Wichita-Sedgwick County Unified Zoning Code* Section III-D.6.a states that accessory apartments are required to be under the same ownership as the primary residence, compatible in appearance with the primary residence, and utilize the same water and sewer service as the primary residence. The Comprehensive Plan depicts this site within Kechi's urban growth area and their Zoning Area of Influence.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicants shall obtain all applicable permits including, but not limited to: building, health and zoning.
2. Development and maintenance of the site shall be in conformance with the approved site plan.
3. If operations have not begun within one year of approval, or if the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the application area is zoned RR and intended or developed for single-family residential use. The area is rural in character with large-lot residential uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned RR, which primarily permits agriculture and large lot residential uses. The site could continue to be used without the Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Provided that the proposed accessory apartment meets all applicable codes, the proposed accessory use should have no effect on the surrounding properties.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The requested conditional use is in conformance with *Wichita-Sedgwick County Comprehensive Plan* goals of efficiently using land and providing affordable housing options, and the *Wichita-Sedgwick County Unified Zoning Code* Supplementary Use Regulations
5. Impact of the proposed development on community facilities: Approval will not impact community facilities to any significant degree.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

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8. **Case No.: CUP2006-06 and ZON2006-07** – WN Enterprises, LLC, c/o Evan LaRue (owner); MKEC, c/o Greg Allison (agent) Request The creation of Stonebridge Community Unit Plan; and zone change from “SF-5” Single-family Residential to “LC” Limited Commercial on property described as;

The North Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT, road right-of-way on the West and North
TOGETHER WITH

The South Half of the Northwest Quarter of the Northwest Quarter of Section 32, Township 26 South, Range 1 West of the 6th P.M., Sedgwick County, Kansas, EXCEPT, road right-of-way on the West. Generally located on the southeast corner of 37th Street North and Maize Road

BACKGROUND: The applicant proposes to create a commercial Community Unit Plan containing approximately 36 acres with 11 parcels zoned “LC” Limited Commercial for commercial development on the southeast corner of Maize Road and 37th Street North. Currently the property is zoned “SF-5” Single-family Residential.

Parcels 1-10 are parcels located along Maize Road and 37th Street North. They range in size from 0.9 acre to 2.23 acres (Parcel 1 - 1.55 acre, Parcel 2 – 1.27 acre, Parcel 3 – 1.39 acre, Parcel 4 – 1.38 acre, Parcel 5 – 2.23 acres, Parcel 6 through 9 – 0.97 acre each, Parcel 10 – 0.90 acre). Parcel 11 is the main parcel. It has 23.27 acres and is connected to Maize Road and 37th Street North with a main entrance off each street frontage. A portion of this parcel will be used for drainage/detention purposes. Most likely this will be in the area directly east of the Parcels 1-4 and along the southern edge of the tract.

Allowed uses would be those permitted by right in the LC district except: adult entertainment establishment, correctional placement residence, asphalt/concrete plant, pawnshop and storage-outdoor as a separate use. Additionally, convenience stores, service stations, auto repair, car washes, restaurants with drive-in or drive-through windows, and taverns and drinking establishments would be prohibited within the south 200 feet of Parcels 1 and 11 and within the east 150 feet of Parcels 10 and 11. Overhead doors would be prohibited within 200 feet of residential zoning and overhead doors could not be facing residential zoning. Car washes would be prohibited within 200 feet of residential zoning, and, in those areas where not prohibited, would be subject to the additional requirements of the supplementary use regulations of Sec. III-D.6.f of the Unified Zoning Code.

Outdoor storage and display is permitted on Parcel 11 as an accessory use. Screening of outdoor storage and display would be per standards for the LC Limited Commercial district, except that outdoor storage would be allowed to increase from 10 percent to 20 percent, which is the amount allowed in LC subject to a conditional use approval. The approval of this use in the CUP would be considered granting the conditional use for additional outdoor storage area, but would be subject to site plan review by the Director of Planning, with concurrence of the Zoning Administrator and Traffic Engineer, to ensure compliance with LC site design standards for outdoor storage.

Maximum building coverage and gross floor area is shown as 35 percent for Parcels 1-8, 30 percent for Parcels 9 and 10, and 27 percent for the area of Parcel 11 (not including the area used for detention). Total maximum building coverage and gross floor area for the CUP would be 30 percent. Building height is shown as 45 feet for Parcel 11 and 35 feet for Parcels 1-10. The total number of buildings is proposed as 16, with one building on each of the smaller parcels and five on Parcel 11. Building setbacks are shown as 35 feet on along Maize Road, 37th Street South and exterior property lines. Internal building setbacks on parcels are shown as 15 feet. If a parcel is developed with a building of more than 100,000 square feet of gross floor area, the building setback increases to 100 feet on the south and west property lines and 35 feet on the interior parcel boundaries.

Buildings would have uniform architectural compatibility of character, color, texture and same materials (further defined as similar to surrounding residential areas), and would use earth-tone colors predominately. Parking lots would have similar or consistent lighting elements, limited to 25 feet in height, and reduced to 15 feet in height within 100 feet of residential zoning with residential use. Parking would be per code, but allows for use of Parcels 6-10 as parking areas for Parcel 11 if needed by future development, particularly if the CUP is developed with a shopping center type of building rather than a big box type of use on the main parcel.

A six-foot masonry wall would be constructed along property abutting residential zoning. The Sedgwick County bike path is shown on the CUP as a 10-foot asphalt sidewalk. The CUP requires a site plan to provide for smooth internal flow of vehicular and for pedestrian connections between buildings and with the arterial sidewalk system.

Monument signage requested slightly exceeds the amount allowed by the Wichita Sign Code, and it is recommended the overall limit on sign face area of 0.8 times linear frontage be added. The number of signs requested is 14 monument signs, 11 signs with a maximum height of 20 feet and an maximum sign face area of 150 square feet, plus three signs with a maximum height of 30 feet and maximum sign face area of 200 square feet. This is equivalent to 17 signs (signs that are 30 feet in height are counted as occupying two sign locations by the Wichita Sign Code), which is the number of signs allowable based on the linear frontage of the CUP. Spacing of 100 feet is requested only between the 30' signs and 20' signs, rather than 150 feet apart. Otherwise, the signs would be spaced 150 feet apart. Portable and off-site signs are prohibited. Window displays would be limited to 25 percent of window area and signs on the rear would be prohibited.

The property currently is zoned SF-5 and is in agricultural use. The property to the east and south is owned by USD#266 Maize School District. A portion of the 280 acres is developed with Maize South Middle School and the remaining land is being held for future school development. The property to the west of Maize Road is in large lot residential use or agricultural use but has been platted and is being zoned for commercial use. A 25-acre tract on the northwest corner of Maize and 37th Street North is zoned LC and approved for commercial development (DP-262 37th & Maize Commercial CUP) but currently undeveloped. The property to the north of 37th Street is located in the city of Maize. An eight-acre tract is being developed with an institutional use (Wichita State University) and approximately 25 acres is available for commercial use.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	City of Maize	Institutional (university)
SOUTH:	SF-5	Vacant
EAST:	SF-5	Institutional (school)
WEST:	LC, City of Maize Agricultural, large lot residential	

PUBLIC SERVICES: Maize is a four-lane arterial road, and 37th Street North currently is a two lane arterial road. Two full movement openings are shown on Maize Road and positioned opposite the approaches platted on the west side of Maize Road. The first full movement opening onto 37th Street North is only 260 feet from the intersection. Normally, the Access Management Policy would require this to be right-in/right-out opening. However, it is directly opposite of a street located within the city of Maize and so will be allowed full movement. Other openings would be required to conform to the Access Management Policy, with full movements openings separated by a minimum of 400 feet and only right-in/right-out openings separated by 200 feet.

No traffic study was submitted to demonstrate impact of up to approximately 430,000 square feet of gross floor area requested by the CUP. Using average trip generation rates of 40 vehicles per day per 1,000 GLA (not including trip modifications for pass-by, multi-stop trips, and other modifications generally included in a traffic study), if fully developed, a rough estimate of potential traffic generated would be 17,000 vehicles per day.

Other normal public services are available to the site.

CONFORMANCE TO PLANS/POLICIES: The "Wichita Land Use Guide, as amended May 2005" of the 1999 *Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide.

Commercial Objective III.B encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP requires a site circulation plan and architectural compatibility to address these policies. As requested (and recommended), signage is in conformance to the Wichita Sign Code and provides for shared signage for development identification/tenant signs. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP includes restrictions on uses, height of parking lot lighting and wider building setbacks for large (over 100,000 square feet) buildings in proximity to residential zoning. The total length of frontage for commercial parcels is long (one-fourth mile on both arterials) but the overall shape is square due to the large size of the interior tract proposed for big box use or for a shopping center.

RECOMMENDATION: The *Comprehensive Plan* did not anticipate commercial or residential use on this tract and designated it for institutional use. Institutional uses are occurring to the north (Wichita State) and east (Maize school facilities). More limited strip commercial use, including fast food, is being developed along Maize Road north of 37th Street North. The property to the northeast of the 37th and Maize intersection is approved for a similar but smaller CUP type development and farther north for more commercial. Also, commercial has been allowed west of the site on Maize Road. The *Comprehensive Plan* shows the area south of the site for institutional use and it is owned by the Maize School District.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2006-07) to LC Limited Commercial subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-295), subject to the following conditions:
 - 1. The applicant shall guarantee center left turn lanes and right-turn decel lanes to all full movement approaches at time of platting.
 - 2. Add to General Provision 4: (not including metal as a predominant exterior façade material).
 - 3. Add General Provision 10K: The total amount of sign face area of freestanding signage along each arterial street shall not exceed 0.8 times the linear frontage.
 - 4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - 5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 - 6. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 - 7. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-295) includes special conditions for development on this property.
 - 8. The applicant shall submit 4 revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

- 1. The zoning, uses and character of the neighborhood: The property currently is zoned SF-5 and is in agricultural use. The property to the east and south is owned by USD#266 Maize School District. A portion of the 280 acres is developed with Maize South Middle School and the remaining land is being held for future school development. The property to the west of Maize Road is in large lot residential use or agricultural use but has been platted and is being zoned for commercial use. A 25-acre tract on the northwest corner of Maize and 37th Street North is zoned LC and approved for commercial development (DP-262 37th & Maize Commercial CUP) but currently undeveloped. The property to the north of 37th Street is located in the city of Maize. An eight-acre tract is being developed with an institutional use (Wichita State University) and approximately 25 acres is available for commercial use.
- 2. The suitability of the subject property for the uses to which it has been restricted: The area is suitable for institutional use.
- 3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval could spur additional requests for commercial use to the south of the CUP, and result in additional commercial use on Maize Road, as well as extending commercial use closer to the developing residential uses in Fox Ridge Development one-fourth mile to the south. The CUP mitigates some of the commercial impact by limiting some uses near the southern and eastern property boundaries.
- 4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "Wichita Land Use Guide, as amended May 2005" of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for "institutional" use. The proposed CUP does not conform to the Land Use Guide. **Commercial Objective III.B** encourages future commercial areas to "minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. The CUP requires a site circulation plan and architectural compatibility to address these policies. As requested (and recommended), signage is in conformance to the Wichita Sign Code and provides for shared signage for development identification/tenant signs. **Commercial Locational Guideline #1** of the Comprehensive Plan recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP includes restrictions on uses, height of parking lot lighting and wider building setbacks for large (over 100,000 square feet) buildings in proximity to residential zoning. The total length of frontage for commercial parcels is long (one-fourth mile on both arterials) but the overall shape is square due to the large size of the interior tract proposed for big box use or for a shopping center.
- 5. Impact of the proposed development on community facilities: Traffic expected from this development would be a substantial increase over current traffic volumes. It could be expected to impact traffic safety for school buses and increase demand for widening 37th Street North.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

9. **Case No.: ZON2006-14** – Ritchie Corporation (applicant); Cornejo & Sons, Inc., (contract purchaser) Request Zone change from "LI" Limited Industrial to "GI" General Industrial for concrete asphalt plant on property described as;

Part of Lot 1 and part of Lot 2, Block 1, I-135 Power Center, an Addition to the City of Wichita, Sedgwick County, Kansas, described as beginning at the northeast corner of said Lot 2; thence S 89 degrees 46'40" W along the north line of said Lots 1 and 2, 1220.17 feet to a point 500 feet east of the northwest corner of said Lot 1; thence S 00 degrees 00'00" W, parallel with the west line of said Lots 1 and 2, 937.57 feet to a point 150 feet north of the north line of Lot 3 in said Block 1; thence N 90 degrees 00'00"E, 420.81 feet to a point on the easterly line of said Lot 2; thence N 40 degrees 16'24" E, 1236.57 feet to the point of beginning.

Generally located 500 feet east of Hydraulic approximately 500 feet south of Tulsa Street.

BACKGROUND: The application area consists of an undeveloped 18.21 acres, a portion of two platted lots, generally located 500 feet south of Tulsa, 500 feet east of Hydraulic, and west of I-135. The contract purchaser wishes to develop the site with ready mix concrete and asphalt production facilities. The contract purchaser owns LI zoned property north of this site, which is used for similar production.

All property surrounding the site is zoned LI and is vacant or developed with industrial uses. Across Hydraulic, 500 feet west of the site, is "LC" Limited Commercial and "MF-29" Multi-family Residential zoned property, developed with a church, a retail use, a postal facility, and single-family residences.

The current LI zoning permits asphalt and concrete plants, general, as a Conditional Use. The applicant does not wish to file for a Conditional Use, and instead requests a zone change to "GI" General Industrial zoning, see the attached information sheet submitted by the applicant. Unlike LI zoning, GI zoning allows basic industry and hazardous operations as Conditional Uses. The Unified Zoning Code (UZC) defines basic industry as including "storage or manufacturing processes that involve or have the potential to involve commonly recognized offensive conditions." Examples include rendering plants, animal dressing, pulp processing and paper manufacturing, stockyards, slaughterhouses, steel works, tanneries, acid manufacture, distillation of bones, fertilizer manufacture, garbage, offal or dead animal incineration, reduction or dumping, glue manufacture, gas manufacture, and petroleum refineries. The UZC defines hazardous operations as activities that "present serious hazards to human life and health." Examples include arsenals, atomic reactors, explosives and fireworks manufacture, hazardous waste disposal, medical waste disposal and radioactive waste handling. In addition, while wrecking/salvage yard is a Conditional Use in both the LI and GI districts, the outdoor storage and/or bailing of junk, scrap, paper, bottles, rags or similar materials is prohibited in the LI zone, but is not prohibited in the GI zone.

CASE HISTORY: The site was platted as portions of Lots 1 and 2, Block 1, I-135 Power Center Addition in 1994.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Industrial chemical manufacturing, concrete manufacturing
SOUTH: "LI"	Vacant, mini-storage, automobile service
EAST: "LI"	Interstate highway
WEST: "LI", "LC", MF-29"	Vacant, commercial uses, postal facility, church, single-family residential

PUBLIC SERVICES: Hydraulic is a paved four lane arterial at the application site with a 55-foot half-width right-of-way. Current traffic counts on this portion of Hydraulic are 9,403 vehicles per day. The applicant has not indicated an access plan for the site. The site could be accessed from Tulsa Street across the applicant's property north of the site, or it could be potentially accessed from Hydraulic, across property west of the site. The site has rail access via the applicant's property north of the site. All municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for an "Employment/Industry Center." The Comprehensive Plan definition for "Employment/Industry Center" states: "This category encompasses areas with uses that constitute centers or concentrations of employment of an industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices." The proposed use for this site is not consistent with the "Employment/Industry Center" category, but is specifically listed within the "Processing Industry" category of the Comprehensive Plan Land Use Guide.

The Comprehensive Plan Visual Form map identifies I-135 as a major roadway. Strategy X.E4. states: "Enhance the visual image of the community through closer attention to the design and manner of placement of elements along major streets..." Existing codes would require screening of outdoor work and storage areas within 150 feet of I-135. The landscape code would require a landscape plan for this site, and landscaping of the proposed use from I-135.

RECOMMENDATION: City Environmental Services Air Quality staff has expressed concerns about emissions and odors associated with this request, in proximity to a residential area. Planning staff feels that a Protective Overlay could mitigate the access, dust, emission, and visual concerns associated with this case, similar to the conditions of a Conditional Use. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to replatting the property within one year, and subject to the following Protective Overlay:

1. The applicant shall submit, install, and maintain a landscape plan that provides a 15-foot wide landscape buffer along I-135 with trees spaced 40 feet apart. In addition to the 15-foot buffer, the landscape plan shall conform to the Landscape ordinance and shall be approved by planning staff,

2. Outdoor storage and work areas located within 150 feet of the I-135 right-of-way shall be screened, prior to production activities on the site.
3. The site shall be limited to one concrete/asphalt batching plant that shall not be placed within 850 feet of Hydraulic Avenue.
4. Access to the site shall be from the north, and shall not be directly from the west off Hydraulic Avenue.
5. No rock crushing shall take place on the site.
6. Development and use of the subject property for a concrete/asphalt batching plant shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, environmental codes, and operational standards.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All property surrounding the site is zoned "LI" Limited Industrial and is vacant or developed with industrial uses. Across Hydraulic, 500 feet west of the site, is "LC" Limited Commercial and "MF-29" Multi-family Residential zoned property, developed with a church, a retail use, a postal facility, and single-family residences. The site is bordered to the east by I-135.
2. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned with uses permitted in the "LI" Limited Industrial zoning district. The proposed use could be developed under the current zoning with a Conditional Use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the zone change request will permit the proposed asphalt/concrete plant, general, as a permitted use, without the mitigating conditions of a Conditional Use. The proposed Protective Overlay should help to mitigate access, dust, emission, and visual concerns associated with this case. Approval of the zone change would also create the opportunity for future basic industry and hazardous operations Conditional Uses, and certain salvage uses, which could have negative effects on residences, businesses, and institutional uses on the west side of Hydraulic. These potential basic industry, hazardous operations, and salvage Conditional Uses could also present negative visual effects within the I-135 view corridor.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this site as appropriate for an "Employment/Industry Center." The proposed asphalt/concrete plant is not consistent with this land use category.
5. Impact of the proposed development on community facilities: Traffic on this portion of Hydraulic will increase with the proposed use. The proposed Protective Overlay provision limiting access from the north should mitigate the traffic impact relative to properties on the west side of Hydraulic.

JESS MCNEELY Planning staff presented the staff report.

DUNLAP Did you say the City of Wichita contact is in opposition because they are afraid there is going to be an odor problem?

MCNEELY The City of Wichita Environmental staff contacted us and we invited them to submit something for your review, and in their concerns list dust, which is probably the greatest concern, emissions and odors.

DUNLAP There is no credibility to that list at all in that neighborhood. Condition #2 of the proposed Protective Overlay, how do you propose that you screen from a highway that is higher than the land?

MCNEELY Technically, screening can be waived if the highway is considered elevated. In talking to Office of Central Inspection, they do not currently view this portion of I-135 elevated, which would require screening regardless.

DUNLAP How tall does screening have to be?

MCNEELY Standard screening will be 6-8 feet.

CHUCK HILL, WITH CORNEJO & SONS We do have some things that we would like to discuss about the proposed Protective Overlay. First of all there are screening and landscaping requirements for General Industrial property. Those are set forth in the Codes, and we are certainly willing to comply with those. What we don't understand is why we need a Protective Overlay that says you have to comply with the Zoning Code when we change your zoning to "GI" General Industrial. We are more than happy to comply with all the regulations that apply to "GI" zoning. I am concerned what the staff is doing is trying to impose greater requirements than would normally be required for "GI" zoning. Some of the other conditions, which they have imposed, such as Condition #5, that no rock crushing shall take place on the site. No rock crushing can take place on the site with "GI" zoning unless we would apply for and obtain a Conditional Use permit. I think you can probably all agree that the chance of us getting a CU for another rock crusher in that neighborhood is about the same as my chance to win the lottery.

The question to be raised is why do we impose Protective Overlays that don't protect anything? Why do we need to muddy up the zoning request with a Protective Overlay to prohibit uses that aren't allowed with the "GI" zoning without additional zoning action? I take some offense to the staff's inclusion of a list of all of these supposed uses that could be made of the property if it switched to "GI" zoning because if you read the zoning code the only thing you can do as of right when you move from "LI" to "GI" that is in addition to what you can do as a right in "LI" is to have a concrete or asphalt plant. Anything else more intensive than what is allowed in "LI" zoning requires a Conditional Use permit.

We have some substantial problems and opposition with the Protective Overlay Condition #4, with limited access to the site. What we would like to do ...(away from podium) we would like to have access to from E Berkely Avenue, back to this site for two reasons.

Number 1, what we want to do with this property which we are also buying is to develop that with some retail or office or light industrial use that can provide some jobs and opportunity for people in the neighborhood. We are going to need an access point to that development and we think the best way is to have Berkely Avenue come back here so we can get access to these two pieces. Number 2, what you have right now is you have everybody from Lubrication Engineers, Castle Metals, and Cornjo and Sons coming up Tulsa to get access to Hydraulic, what we are asking for is another access point with over 1,000 feet from the Tulsa intersection with Hydraulic so some of this traffic can be divided rather than dropping it all on one intersection that is controlled only by a stop sign.

We did not request a Conditional Use permit for the asphalt plant because we would like to have some flexibility over the next period of years to use that property for an expansion of our business. The light manufacturing and those types of businesses are leaving that area, we are the only business in that area that has maintained employment and grown in employment over the last 10-15 years. We consider ourselves as an asset to that area. What we are asking for is just some flexibility to have some "GI" General Industrial zoning so that we can expand our paving business. We do have a good neighbor to the south of our current facility and I think he wants to speak to the traffic issue.

I would like to address the Comprehensive Plan statement that was made by staff. The Comprehensive Plan is a guideline and it is not a zoning document, and it does not zone property and it does not prohibit the change of zoning of the property. This property has been vacant for 40 years and nothing has been done with it, there is no development at all of any business of anything that is of value to the neighborhood. We would like to do that, not only in the area that we request rezoning but also along Hydraulic. There is not, we don't believe, a market for the types of uses which the staff indicates the Comprehensive Plan calls for, such as call centers, nobody is going to build call centers down here, it is a perfect location and allows us to expand our facility to continue to service the citizens of Wichita. We run a clean operation and do not have complaints.

We would ask that you would approve the request for "GI" General Industrial zoning without the Protective Overlay with the exception of the 850 foot setback for the plants.

HILLMAN I wonder since you can already set up and put an asphalt facility under "LI" zoning, why wouldn't you simply have us approve that today, and if you wanted to expand in the future, and if there are any changes to the area we will have limited your options so we can re-evaluate again like we did in the earlier process where they want to expand. I think "LI" will allow you to do what you want to do today.

HILL It doesn't without a conditional use permit. We can do everything we need to do in terms of construction storage and that sort of thing with "LI" zoning, but we cannot have an asphalt or concrete plant without a conditional use permit. But, you are asking us to invest millions of dollars, the purchase, development and the establishment of the plants, and frankly the asphalt plant that we intend to put there right now is going to be a truly portable plant that may be taken out of town, and taken to other sites from time to time. But, to ask a business to invest those kinds of millions of dollars so that we can expand and stand in an area where we are the only business that is providing jobs on a limited basis, and say we will give you four to five years to have a plant but we want to set it up so we can change it down the road that makes it very difficult for us to make the decision to make that investment. These asphalt plants are inspected by the health department I don't know how many times a year.

SHERMAN I have a question on the traffic that would be diverted from Tulsa down to Hydraulic, is that correct?

HILL Instead of adding more traffic to Tulsa, which is very busy let's have another alternative here for a portion of that traffic so that we are dividing up.

SHERMAN You would not be going through any of the neighborhoods at all?

HILL No, we will either go north on Hydraulic or south on Hydraulic.

BISHOP You pointed out where the current plant is, how is that currently zoned?

HILL That is zoned "LI" Limited Industrial, but the plants were in existence prior to a change in the zoning code. I think concrete and asphalt plants were permitted in Light Industrial so those are lawful non-conforming uses basically at this time. We can't expand those without getting an additional conditional use permit, plus it is just a matter of space. We have run out of space. There is no other space in this area for us to expand to.

BISHOP So the reason you don't want the Protective Overlay (P.O.), is why?

HILL It is difficult for me to understand the purpose of a P.O. that the staff claims does nothing that is not already in the zoning code for "GI" General Industrial property. Now part of the P.O. is the access issue, and we have a problem with that, Condition #4. Now, Condition #5 they are attempting to take away the ability of anybody to apply for a CU permit for a rock crushing operation but I don't think the P.O. would do that.

BISHOP There is a problem with Condition #1?

HILL They are talking specifically about items along I-135 in terms of landscaping that may or may not be consistent with what is required by the Landscape Ordinance and the zoning code, and the same with the screening. We are going to have a concrete block wall that is probably going to shield most all of that site anyway. You have to understand we have a rail spur that comes into that property that is going to be used for the delivery of rock, and other aggregates. It is a little difficult to landscape and shield an industrial operation like this. Our current operation is visible from I-135 and we don't think it is a detrimental appearance to the community. It has the appearance of a viable ongoing successful business.

BISHOP You object to Condition #2?

RONALD CORNEJO Our concern with Condition #2, it makes reference to the screening and my concern there is that can be interpreted a lot of different ways, and what we are doing there is we are putting in a rail unloading system. We are going to have rock storage out there, and there is no amount of screening that I could put in there that would screen what we are doing. I am concerned with that being written in the Protective Overlay. How do I screen my operation?

BISHOP Because of where the railroad spur is located?

CORNEJO The railroad spur runs parallel with I-135 and there will be rail cars, and large conveyors and aggregate piles. I am concerned about the appearance of our operation, and I take pride in what we do out there and it is difficult to interpret what they mean by screening here.

HILL All of those things we could do without any zoning action whatsoever in "LI" zoning.

MARNELL How do you interpret #3?

HILL We have no problem with the 850 foot setback from Hydraulic to the extent that it wants to limit our ability to use the property, otherwise we would prefer not to have that provision in there.

MARNELL The way it is written is that you can develop it with one concrete/asphalt plant but it doesn't say that you can't develop it with two. It is a poorly written sentence.

DARRIN BOOTH, 1919 E. Tulsa, Plant Manger of Lubrication Engineers, We agree and support Cornejo and Sons. Basically with Lubrication Engineering since 1991 they run an orderly operation. They have great pride in their operation. We have no objection to them diverting traffic down Berkely, that would help us immensely from the amount of traffic that goes down Tulsa.

MOTION: To approve zone change without the Protective Overlay.

ALDRICH moved, **ANDERSON** seconded.

SHERMAN Does that exclude the 850 feet off Hydraulic?

ALDRICH Yes.

GISICK If there is not a P.O. how close can they go to Hydraulic?

GOLTRY If you don't have a P.O. there are no restrictions.

MCNEELY The application area is defined as the application area, which sits 500 feet from Hydraulic. We have a legal description of the application area, which is not one clean lot, which is why we recommended subject to platting. Platting would give the opportunity to address access as well.

BISHOP I am planning to support the motion. I have concerns about the air quality, and the fact that the Environmental Services weighed in, however, that lead staff to craft the conditions that they put in there but we really need more to go to be able to rely on that.

HILLMAN I do plan to support the motion but I am concerned about the view and visibility on I-135.

SHERMAN What requires the access on Berkely? Can they get it or not?

ALDRICH My intent is to allow access from Berkely. The applicant will have to have a permit from the Kansas Health Department.

MOTION carries 11-0.

10. **Case No.: CON2006-08** – Team Management, LLC, c/o Erik Leschuk (owner/applicant) Request Conditional Use for indoor vehicle sales on property zoned "LC" Limited Commercial, zoning within the Delano Overlay District

Lot 30 and 1/2 vacated alley adjacent on East, Chicago Now Douglas Avenue, West Wichita Addition, Sedgwick County, Kansas TOGETHER WITH The West 45 feet of Lots 21, 23, 25, 27 and 29 and 1/2 vacated alley adjacent of the West, Wichita, now Handley Street, West Wichita Addition, Sedgwick County, Kansas. Generally located South of Douglas and west of Handley (915 W. Douglas)

BACKGROUND: The applicant requests a conditional use to permit indoor vehicle sales on a 0.90-acre property zoned LC Limited Commercial located south of Douglas Avenue and west of Handley Street. The subject property is located within the Delano Overlay (D-O) district. The applicant currently leases the subject property to a variety of office uses. Sec. III-C.8.b(2) of the Unified Zoning Code (UZC) specifies "Vehicle and Equipment Sales (indoor)" as a conditional use within the D-O district.

A mix of office and commercial uses with GC General Commercial and LC Limited Commercial zoning along both sides of Douglas Avenue characterizes the immediate area. Several properties both east and west of the site are zoned LI Limited Industrial, although they are occupied by mostly commercial and office uses. The remainder of the block to the south of the site is zoned GC and occupied by a variety of commercial uses. The nearest residential zoning and use exist over 300 feet away to both the southeast and southwest.

The building on the subject property has an existing garage door, accessible from the platted alley immediately south. The applicant submitted the attached site plan illustrating the proposed use in the garage portion of the existing building. No alterations to the structure are needed for the proposed use. The applicant has indicated that the use will be limited to the display of a single vehicle and the recommended conditions of approval reflect this request.

CASE HISTORY: The subject property is platted as part of the West Wichita Addition.

ADJACENT ZONING AND LAND USE:

NORTH:	LC; GC	Mixed commercial and office uses	
SOUTH:	GC	Mixed commercial and office uses	
EAST:	LC; GC	Mixed commercial, office, personal care and personal uses	improvements
WEST:	LC; LI	Mixed commercial, office, personal care and personal uses	improvements

PUBLIC SERVICES: The subject property has one point of access to Douglas Avenue, which is a two-lane minor arterial with diagonal parking on both sides and a daily traffic count of approximately 9,500. The 2030 *Transportation Plan* recommends that this portion of Douglas Avenue become a five-lane arterial; however, the CIP does not propose any projects at this location, as improvements have been completed in the last two to three years. There is also a platted, improved alley adjacent to the south of the subject property. Municipal water and sewer currently serve the subject property.

CONFORMANCE TO PLANS/POLICIES: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas.

The Commercial Locational Guidelines of the Comprehensive Plan also recommend that auto sales lots and other types of infrequent purchases or non-neighborhood serving commercial uses be guided to areas containing similar uses, and away from neighborhood commercial areas. However, the nature of the requested conditional use confines the use to the building interior, with no renovations required. In fact, as proposed, the use will be indiscernible from the exterior of the building.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The subject property shall comply with the requirements of Section III-C.8 (D-O Delano Overlay district standards) of the Unified Zoning Code, as applicable.
2. The subject property shall be limited to the indoor display and sales of one vehicle at any given time.
3. There shall be no outdoor sales, display or storage of vehicles allowed upon the subject property.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

The staff recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: A mix of office and commercial uses with GC General Commercial and LC Limited Commercial zoning along both sides of Douglas Avenue characterizes the immediate area. Several properties both east and west of the site are zoned LI Limited Industrial, although they are occupied by mostly commercial and office uses. The remainder of the block to the south of the site is zoned GC and occupied by a variety of commercial uses. The nearest residential zoning and use exist over 300 feet away to both the southeast and southwest.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC Limited Commercial and is currently used for a variety of office uses. Absent the Delano Overlay, the property could be used for indoor vehicle sales without the conditional use.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: As proposed and recommended the conditional use should be indiscernible from the building exterior. Therefore, there should be no detrimental impacts to surrounding residential areas.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for Local Commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines of the Comprehensive Plan also recommend that auto sales lots and other types of infrequent purchases or non-neighborhood serving commercial uses be guided to areas containing similar uses, and away from neighborhood commercial areas. However, the nature of the requested conditional use confines the use to the building interior, with no renovations required. In fact, as proposed, the use will be indiscernible from the exterior of the building.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

11. **Case No.: CON2006-13** – Sand Bay, LLC, c/o Larry Hacker Request Sedgwick County Conditional Use for sand and gravel extraction on property zoned “RR” Rural Residential on property described as;

The Southwest Quarter of Section 33, Township 25, Range 1 West, Sedgwick County, Kansas. Generally located on the northeast corner of 77th Street North and 87th Street West (Tyler Road)

BACKGROUND: The applicant is seeking a Conditional Use to permit sand extraction on 160-acres of farmland/wheat field located on the northeast corner of 77th Street North and 87th Street West (Tyler Road). The property is located in Sedgwick County, is outside of any city's area of zoning influence, is zoned “RR” Rural Residential and is unplatted. The applicant proposes to excavate an approximately 120-acre lake in order to access the sand and gravel located on the site. The applicant is in the construction business and requires a reliable supply of sand.

The site plan shows the sand plant, material stockpiles, an operations building, a scale, and the gated (two gates on the same drive) entrance onto 77th Street North. This operational area is located along the site's 77th Street North frontage, at the midway point of the site. Proposed setbacks from the property line to the excavation area are 200-feet along its two street yard frontages and 50-feet along its two interior side yards; both setbacks exceed or meet the minimum standards of Unified Zoning Code (UZY). The expected heavy truck traffic generated by the proposed 20-year period needed for the sand and gravel extraction is out of character with the current rural residential traffic on the road and can be expected to contribute to accelerated disrepair of 77th Street North.

The applicant proposes to excavate the area in two phases, beginning on the site's south side and continuing north. As mentioned, the applicant proposes a 20-year period to excavate the site's sand and gravel leaving a proposed 120-acre lake site. The site's redevelopment plan shows five, approximately 4.5-acre tracts along the site's west and south street side frontage.

The subject site is located within the Equus Beds Groundwater Management District #2. District #2 will require that the applicant apply for water rights through the Division of Water Resources, located in Topeka. The site is located outside of both the Arkansas River's 100-year and 500-year flood boundaries.

The surrounding area is zoned “RR”. Abutting northern and eastern properties are in wheat. There is a farmhouse located diagonally adjacent to the site, on the southwest corner of 77th Street North and 87th Street West, with wheat and farmland around it. Lands located south and west of the site (across 77th and 87th respectively) are in wheat. An active sand extraction operation (CON2003-32) is located approximately ½-mile south of the site (on 73rd Street North) and can be seen from the site. There is a development of 32 single-family residences, on approximately 4.5-acre regular shaped tracts, located diagonally adjacent to the northwest corner of the site, across 87th Street West. There is another narrow, rectangular cluster of residences on irregular shaped lots of various sizes, located approximately ¼-mile east of the site, on the south side of 77th. This cluster of residences (approximately 24) continues south along the west side of 71st Street West (Ridge Road) from 77th Street North to 73rd Street North. There are at least seven private drives onto 77th for seven residences and another small, dead-end drive onto 77th that serves two more residences, all located between the site and the 77th Street North - Ridge Road intersection. Ridge Road is the nearest paved road and, at this location, is a paved Sedgwick County highway,

CASE HISTORY: None

ADJACENT ZONING AND LAND USE:

NORTH:	“RR” Rural Residential	wheat field, single-family residential development, scattered single-family residences
SOUTH:	“RR” Rural Residential	wheat field, scattered single-family residences, sand and gravel extraction pit
EAST:	“RR” Rural Residential	wheat field, cluster of single-family residence
WEST:	“RR” Rural Residential	wheat fields

PUBLIC SERVICES: 77th Street North and 87th Street West are sand and gravel Valley Center Township Roads. Neither road crosses the Arkansas River, located approximately a mile west and ¾-mile south of the subject site. 77th intersects, to the east, with Ridge Road, which is a two-lane paved Sedgwick County highway; this is the highway the truck traffic to and from the subject site will be using. There are no current traffic volume figures available for either of the Township roads. The 2030 Transportation Plan estimates that the traffic volume on Ridge Road, between 77th Street North and 61st Street North will be approximately 5,500 vehicles per day in 2030. The site is in the Valley Center School District. Municipal water and sewer services are not currently available to serve this site. The site is located outside the 30-year urban service area and all small city growth areas. Use of the site for sand and gravel extraction can be supported by on-site water and sewer service. No public sewer or water services are available.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Wichita/Sedgwick County Comprehensive Plan identifies this area as appropriate for “Rural” development. The Wichita/Sedgwick County Comprehensive Plan indicates that industrial uses in rural areas should be limited to those that are agriculturally oriented, dependent upon a natural resource, or part of an appropriate expansion of an existing industrial use. Sand and gravel extraction would be dependent on a natural resource.

RECOMMENDATION: This is the third Conditional Use request for a sand extraction operation along the 77th - 73rd Streets North and 71st Street West (Ridge Road) area. The other two sites are within a ½-mile of the subject site. CON2003-32, located on 73rd North approximately ½-mile directly south of the site, was approved by the MAPC and BoCC. CON2004-32, located ½-mile east of the site on the northeast corner of 77th North and 71st West, was denied by the Valley Center Planning Commission, approved by the MAPC, and subsequently withdrawn by the applicant, prior to action being taken by the BoCC. Planning Staff recommended approval of both request.

Common issues raised by the neighbors in both public hearings included the increase in the volume of traffic and in the area with the introduction of dump trucks used by the sand extraction operations into the area (a public safety concern for the residences), impact on the condition of 71st Street West (Ridge Road), the accelerated disrepair of the sand and gravel township roads due to the trucks and their volume of trips, dust caused by the trucks on these roads, sand and gravel flying out of the trucks as they leave the sand extraction sites (damaging the local vehicles), security around the excavation area, and dust coming from the subject site. A key issue (which the applicant is aware of) to be resolved will be the applicant's ability to meet the County Engineer's requirement for any needed improvements, maintenance and repair of 77th Street North as a result of introducing heavy (both size and volume) truck traffic onto the sand and gravel township road for a 20-year period. A recent past area case, CON2003-32's location on the sand and gravel township road, 73rd Street North, almost mirrors the subject site's location. It has the same type of truck traffic and probably a similar traffic volume as that projected for the subject site's, but the subject site's operation period is 12-years longer than CON2003-32's operation period. Based on CON2003-32's impact of its truck traffic on this sand and gravel township roads, its interaction with local and pre-existing traffic and the dust coming off the road when truck traffic is active, indicates that 77th Street North should be paved. Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with the approved site plan, and be subject to the supplementary use regulations found in the Unified Zoning Code at Article III, Section III-D, gg (attached).
2. The Conditional Use for sand extraction shall be valid for 20-years following the date of final action (either MAPC or County Commission) approving extraction operations. The applicant may apply for an administrative adjustment for an additional two years should extraction operations not be completed at the end of the initial ten year time period.
3. The County Engineer requires the applicant, at the applicant's expense, to pave 77th Street North, from the site's point of entrance onto 77th to Ridge Road, in order to meet the impact of the proposed 20-years of heavy truck traffic to and from the site. If needed posting of signage will direct all heavy truck traffic to and from the site, on 77th Street North and onto 71st Street West, with posting of no truck traffic associated with the sand extraction site onto 87th Street West. This will be to County Standards and at the applicant's expense.
4. The County Engineer requires a drainage plan for review and approval for both the site and that portion 77th Street North that serves the site and will be paved.
5. The subject site is located within the Equus Beds Groundwater Management District #2. District #2 will require that the applicant apply for water rights through the Division of Water Resources, located in Topeka.
6. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

- 1) The zoning, uses and character of the neighborhood: All surrounding property is zoned "RR" Rural Residential. There is a mix of large-tract single-family development, farmsteads and farmland adjacent to the site. The character of the neighborhood is rural.
- 2) The suitability of the subject property for the uses to which it has been restricted: The site is zoned "RR" Rural Residential and is in wheat. The site could continue to be used for farmland or any of the uses permitted by right in the "RR" district. However, sand extraction is a resource-based activity requiring the activity to occur where the sand is located and can be permitted as a Conditional Use in the "RR" zoning district.
- 3) Extent to which removal of the restrictions will detrimentally affect nearby property: Blowing dust, increased truck traffic and noise are probably the most obvious concerns associated with this type of request. The volume of heavy truck traffic on 77th Street North will accelerate its disrepair. Dust off of 77th Street caused by the heavy truck traffic will increase and the change in the volume of traffic and type of traffic generated off the site could pose traffic safety issues. However the County Engineer's required paving of that portion of 77th Street North serving the site to its intersection with Ridge Road does address the concerns of road condition, dust from the road and the public safety concerns. When the mining is completed the resulting water feature may be seen as a positive element since many new residential developments go to extra lengths to create water features.
- 4) Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval of the request will provide additional sand resources for the construction industry, including the applicant's construction related businesses, and other consumers of sand. Sand is a vital component of many building materials, including concrete, and building processes used in public and private construction projects. Approval will provide the applicant and other consumers of sand with a source of sand. Denial could increase the applicant's cost of doing business if he had to buy sand from another source or find another location further out.
- 5) Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Sedgwick County Development Guide depicts this site as appropriate for rural uses, and contains policies that look favorably on uses in rural areas that are resource based.
- 6) Impact of the proposed development on community facilities: The projected increase of heavy truck traffic over a 20-year period on 77th Street North means it will have to be paved per County Standards. This projected increase in 20-years of heavy truck traffic added with the heavy truck traffic generated by the sand extraction operation on 73rd Street South will affect traffic on 71st Street West (Ridge Road): existing facilities appear to be in place to address the increase.

BILL LONGNECKER Staff is making recommendation of approval with the conditions listed on page 4 of the staff report. I do need to verbally add two other conditions on this, which were given to staff after the staff report went out. First, the County Code Enforcement wants to modify Condition #1, by adding "All improvements, including paving of 77th Street North, berms and fencing to be installed before operations begin". The County Engineering is requesting that prior to operation beginning on this site that the 77th Street North be paved from the site's point of entrance onto 77th to Ridge Road. I also need to note that several hours before this meeting today, I received a phone call from the Valley Center Township, which is in charge of maintaining this road, and they

also requested that the road be paved. Both the county and the township have noted that the traffic patterns and types of traffic at this site will be similar to the existing sand pit on 73rd Street South, a ½-mile from the site, and that the truck traffic has been rough on that particular road, which paving was not required.

ALDRICH Who would be responsible to do the maintenance to the road if it was paved?

LONGNECKER I would have to ask the County Engineering. It would still be a Township road, but I don't know if its status would change to County or not if it was paved. But the applicant would not be in charge of the maintenance; it would be a governmental entity.

RUSS EWY This is 160-acres. I think Condition #2 has a typo on the final sentence, we are asking for a 20-year time frame for this extraction operation, not the 10-years stated. Also on Condition #3, we are asking that you would remove the paving requirement. The paving condition was born out of previous problems with 73rd Street North, a ½-mile to the south, which services an existing sand operation. The Hackers had taken over that operation some number of years ago, have donated material to Park Township for the road improvement and also donated materials for ongoing maintenance, which I believe improved the condition of 73rd Street. It may be slightly unfair that 73rd has continual maintenance problems due to that extraction operation. We would be entertaining a similar type of arrangement with Valley Center Township to maintain 77th Street, without going to the extreme of paving some ¾-mile of Township road. The Township would be responsible for maintenance, unless or until, the County would chose to take over the maintenance obligation of 77th. There is no mechanism whether we would want to or not to have this and extraction operation take over maintenance duties. I think we can go as far as providing the materials for the maintenance.

ALDRICH You say the County would take that over?

EWY They would have the option, if they did not chose to then it would remain as a Township road and therefore maintained by the Township.

ALDRICH My understanding that the Township has no equipment to maintain the road.

EWY They have the equipment because I got stuck going about 7 miles per hour behind their grader.

ALDRICH I am speaking about blacktop equipment.

EWY I cannot speak to that, but they do have the equipment to maintain a road similar to the one that is there now. I would also offer that in the event the Planning Commission chooses not to remove the paving condition of Condition #3, that they would at least provide us the opportunity for us to revise the operational plan. For purposes of making the extraction operation efficient it would take a progression outwards from the south center of the property. We would ask that if paving 77th would be made an requirement that we would have the flexibility in moving the plant and entrance closer to the ½-mile line, therefore shortening the paved portion of 77th by about 1,000 feet. This would reduce the cost of having to pave the road, which would see upwards of 50 trucks per day on maximum extraction days.

ANTOINETTE FAULKNER, 428 N. EISENHOWER, WICHITA KS 67212 I own 160-acres along this portion of 77th and my concern is the expense involved in the paving, which would cost me money and I don't think that is fair. I am not against them improving the property.

WARNER The cost would not be spread to you, isn't that correct Bill?

LONGNECKER That is correct, as it states in the first line of Condition #3, paving of the road is at the applicant expense, so that cost of the paving would not be spread to the other abutting properties.

BOB PARNACOTT, Assistant County Counselor I would imagine since it is the County Engineer requesting that it be paved, and if the Township was not able to maintain a paved road, then the County is prepared to take it over. The county works closely with the townships.

DUNLAP Russ, the requirement of paving, would that be a deal killer? We have turned down several potential sand operations, and this one does not seem to have an awful lot of opposition, so in my way of thinking, the only obstacle here is paving. Personally I would not move my operations I would just put an internal road in.

TERRY HACKER, Kansas Paving, 2803 Key West, Wichita, KS We haven't determined that as of this date but if it is a requirement we will do it, and live with it, but we don't want to have to do that.

BISHOP Bill, the adjustment to the operational plan, do you see any problem to that?

LONGNECKER No, the MAPC can require a revised site plan part of the condition.

WARNER The way this reads they can put the entrance 100 feet from the corner and pave 100 feet and go anywhere they want on there own property.

MARNELL Not to long back we approved one out in this general area and it seems like it was in the same Township. I thought it was an agreement for the operator to maintain the road.

LONGNECKER That was Park Township, and that would be the case on 73rd Street North.

MARNELL Any comments why we jumped from some kind of agreement like that and why the expenses of paving a rural road like that one?

LONGNECKER According to the County Engineer there has been complaints about the condition of 73rd Street North. 77th Street North is approximately the same location and as we have pointed out in the staff report, this Conditional Use is for 12 years longer than that operation on 73rd Street. This is a 20 years request for sand extraction.

DUNLAP Bill, today we have a county policy that if we were doing housing out here they would have to pave the road, that would be part of the development but we are not doing housing. I don't remember asking any other sand extraction to pave.

LONGNECKER I am not sure that we have in the county.

MAURICE BRAND, 8300 N. TYLER ROAD, VALLEY CENTER, KS 67147 I have lived here half my life. Are you folks familiar with alkaline soil and sand loam soil? When you run heavy trucks across a road that is alkaline soil, it is going to sink and I guarantee you, if you pave that road you will have one heck of a mess. The trucks will sink into the asphalt, so you are better off with a sand road using the aggregate from this gravel pit, mud balls, in that roadway then you are with asphalt. It just will not hold. It does not matter who takes care of the road.

MOTION: Approve the application and eliminate the requirement for paving.

DUNLAP moved, **JOHNSON** seconded, carried 11-0.

12. **Case No.: CON2006-11** – Victor Schofield (owner/applicant); Schofield Honda, c/o Pat Dorsett (agent) Request Conditional Use to allow vehicle and equipment sales, outdoor on property zoned "LC" Limited Commercial on property described as;

Lot 1, Block A, McHugh Addition, Sedgwick County, Kansas. Generally located 6921 E. Kellogg Street

BACKGROUND: The applicant is requesting a conditional use to permit vehicle sales on a 0.90-acre platted tract located south of Kellogg and east of Mission Road. The applicant owns the Schofield Honda dealership on the abutting property to the east and proposes to expand the dealership onto the subject property, which formerly was developed with a restaurant. The subject property is zoned LC Limited Commercial, which requires approval of a conditional use when vehicle sales are proposed outdoors. The applicant submitted the attached site plan illustrating the proposed use of the subject property as an expansion of an existing vehicle sales lot.

The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. Most of the properties along Kellogg in this vicinity are zoned LC Limited Commercial and are developed with vehicle sales lots. Residential zoning and uses are located to the north across Kellogg in the City of Eastborough and to the south of the subject property. Staff recommends requiring compliance with applicable Supplementary Use Regulations and Compatibility Standards of the Unified Zoning Code as long as residential zoning remains adjacent to the subject property.

CASE HISTORY: The subject property is platted as McHugh Addition, recorded April 26, 1967.

ADJACENT ZONING AND LAND USE:

NORTH:	Eastborough	Single-family
SOUTH:	TF-3	Single-family
EAST:	LC	Vehicle sales
WEST:	LC	Commercial Uses

PUBLIC SERVICES: The subject property has access to Kellogg Drive, a two-lane access road. Municipal water and sewer is available to serve the subject property. Public services are sufficient to support the proposed use.

CONFORMANCE TO PLANS/POLICIES: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Locational Guidelines.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The subject property shall comply with all applicable requirements of Sec. III-D.6.x. (Supplementary Use Regulations), Sec. IV-B. (Screening and Lighting Standards) and Sec. IV-C. (Compatibility Standards) of the Unified Zoning Code.
2. The subject property shall be developed in general conformance with the approved site plan.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the conditional use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the conditional use is null and void.

The staff recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is characterized primarily by regional commercial uses along the Kellogg corridor. Most of the properties along Kellogg in this vicinity are zoned "LC" Limited

Commercial and are developed with vehicle sales lots. The proposed vehicle sales lot is consistent with the zoning, uses, and character of the area.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned LC Limited Commercial. The proposed expansion of the vehicle sales lot may be permitted by way of conditional use. The MAPC has an informal policy of supporting expansion of existing businesses onto abutting property rather than requiring relocation.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Expansion of vehicle sales could have negative effects on the remaining residential properties south of the site. However, the screening, lighting, and compatibility standards of the Unified Zoning Code should limit adverse impacts on adjacent residential uses.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for commercial development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features that limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The request conforms to the Land Use Guide and Locational Guidelines.
5. Impact of the proposed development on community facilities: No detrimental impacts on community facilities are anticipated.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

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13. **Case No.: CON2006-12 and ZON2006-16** – Wayne L. Hubbard and Florence M Hubbard (owners); Security Holdings, LLC c/o Bill Ard (applicant); Baughman Company, PA c/o Russ Ewy (agent) Request Conditional Use for warehouse, self-service storage; and zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as;

Lot 2, except the south 100 feet & except the north 20 feet for road, Gilder's Gardens Addition, Sedgwick County, Kansas. Generally located on the southwest corner of Central and Garnett.

BACKGROUND: The applicant is requesting a zone change from "SF-5" Single-family Residential to "LC" Limited Commercial for a 3.63-acre tract on the southwest corner of Central and Garnett Avenue. Additionally, the applicant is requesting conditional use approval for 2.88 acres for warehouse, self-service storage on an L-shaped tract that excludes the northeast corner (0.75 acre) of the rezoning request.

The site plan shows a lot area coverage of 45 percent, which is the maximum permitted by the Unified Zoning Code for warehouse, self-service storage in the "GO" General Office or LC district. The site plan does not meet minimum landscape buffers or contain the information on the site plan for easements, lighting fixtures, signage, building setbacks, etc.

Pictorial representations taken from other sites and intended to be prototypical of this site were submitted to show the character of the warehouse, self-service storage project. Exterior building walls show brick and composite siding, which is typical of residential construction. The pitch and type of shingle of the roof is similar to those commonly in use in residential areas. The metal fencing (often referred to generically as "wrought iron") also conforms to fencing typically found in residential development.

The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of "GO" General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). A convenience store on property zoned LC is located to the northeast. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of the CUP currently is vacant.

CASE HISTORY: The property is platted as a Lot 2 (except the south 100 feet and north 20 feet for road, Gilder's Gardens Addition, recorded December 29, 1923).

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5, LC Vacant, convenience store
SOUTH:	SF-5 Residential
EAST:	LC Bank, commercial strip center, vacant
WEST:	SF-5 Residential

PUBLIC SERVICES: Access is to Central, a four-lane principal arterial. Traffic counts on Central in 2003 were 8,700 vehicles per day. The warehouse, self-service storage use would generate relatively low volumes of additional traffic. The volume generated by the other commercial parcel could perhaps exceed the mini-storage warehouse site.

The site has access to other normal municipal services.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "urban residential". The proposed CUP is not in conformance with this designation.

RECOMMENDATION: The pictorial representations taken from other sites and intended to be prototypical of this site show architectural building materials for the exterior building walls in character with residential development through the use of brick and composite siding. The pitch and type of shingle of the roof is similar to those commonly in use in residential areas. The metal fencing (often referred to generically as "wrought iron") also conforms to fencing typically found in residential use. Overall, the pictorial representations offer a warehouse, self-service storage project that could blend with residential development. However, the site plan does not meet minimum widths for landscape buffers or contain the information on the site plan for proposed type of landscaping, easements, building setback lines, location of lighting fixtures, location of signage, etc. Architectural design review is required for conditional use approval of warehouse, self-service storage when the project is in close proximity to residential use. While the pictures submitted set the character for the project, more detailed architectural drawings and site drawings are required to comply with Sec. III-D.6.y(5).

Based upon information available prior to the public hearing, Staff recommends that the case be Deferred.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the south and west of the site is zoned SF-5 and in residential use. Farther west on Central (one-eighth mile), a node of "GO" General Office zoning flanks Jackson Heights Street, developed with a real estate office and a hotel. A small lake connects to the properties along the west side of Garnett and south of Central. The property to the north and northwest were approved subject to platting for commercial and office use in 2001, but the property was never platted. Subsequently, the northwest tract was platted for SF-5 residential use (Crestlake Addition). A convenience store on property zoned LC is located to the northeast. The property to the east is zoned LC and partially developed as Crestview Plaza (DP-247 127th Retail Center) with a bank at the corner of 127th Street East and Central and with a small strip center with local retail types of uses. Approximately one-half of the CUP currently is vacant.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 Single-family Residential and could be developed with more intensive residential use by platting of the property.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The potential impact is to the surrounding residential uses. Introduction of LC zoning and uses on the west side of Garnett would represent a change from in the current use of the area as large lot residential use. GO zoning of the warehouse, self-service storage, could help mitigate this impact. GO is a commercial zoning district that allows uses more in character with close proximity to residential use and is what is on the tract one-eighth mile to the west along Jackson Heights Street. Another way to mitigate the impact would be to increase the width of landscape buffers, avoid doorways to storage areas opening directly onto Garnett Avenue since this street serves as the gateway to the residential area to the south, and southwest, limit heights of lighting (including poles, fixtures and base) to lower levels to avoid light spillage, and limit the intensity of commercial uses on the 0.75 acre commercial parcel at the corner of Garnett and Central to avoid the uses prohibited already by the CUP to the east and to eliminate auto-related uses and drive-in and drive-through restaurant uses that have more impact than office or general retail types of commercial uses on nearby residential development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the site as "urban residential". The proposed CUP is not in conformance with this designation.
5. Impact of the proposed development on community facilities: The warehouse, self-service storage use would generate relatively low volumes of additional traffic. The volume generated by the other commercial parcel could perhaps exceed the mini-storage warehouse site.

Several Planning Commissioners stated they had been contacted about this case and it will not effect their decision.

GOLTRY I recommended deferral of this case for a couple of reasons. One of which was that I had some additional information I felt I needed to consider. And, I felt I needed to discuss it with the applicant at the time and had not had time to discuss it. Secondly, I need to point out, at the outset, that there is neighborhood opposition to the case.

I would like to explain the surrounding property uses in the area. And, I will explain the findings that I had in the staff report that would be what you would use as a basis for making a determination. And then, I will update you on some conversation that we have had on a site plan portion of the Conditional Use as well as the balance of the "LC" Limited Commercial tract. Then I will put it in the agent's hand and the public hearing's hands, unless you chose to defer the case outright now.

WARNER Donna are you telling us that staff is recommending not to defer?

GOLTRY I am saying that my official recommendation is to defer the case. I will go through the staff report, at your pleasure and discretion, to explain what the pros and cons are on this case and the additional information that I have received, and for you to have the opportunity to hear the folks who are here if you choose to do so.

WARNER Let's hear it.

GOLTRY This is the area that we are discussing (pointing to subject tract). Crestview Plaza (pointing to the property to the east of the subject tract), which is a Community Unit Plan that is partially developed and zoned "LC" Limited Commercial at this point, there are some restriction on the use of this property as a "LC" Limited Commercial tract that is (governed by) a Community Unit Plan.

This property (pointing to the subject tract) where they are requesting the Conditional Use is not large enough to require it be done as a CUP. There is some additional "LC" Limited Commercial zoning in the corner of what was the old-fashioned 127th Street and Central corner prior to installing K-96, and it would have been your old commercial corner zoning. In addition, on this tract of land (pointing to the site 1/8 mile west on Central) we have Cresthill Suites, and a big realty office, both very nice buildings, both very nice residential designs; those were both done as "GO" General Office with Protective Overlays and were done probably in 2000.

We had this tract of land (pointing to the property north and northwest of the subject tract). It was originally proposed as a CUP that was approved several years ago, I think it was 2002, KTP CUP. It was never finalized for failure to plat. So, currently at this time now, the ownership has been divide on this tract. And, one of the original owners of the CUP that was requested several years ago still owns this tract (pointing to the north portion). This tract (pointing to the northwest portion) has gone into other hands, and it is my understanding that a preliminary plat has been approved for a subdivision for single-family use in this area (the northwest portion). We still have single-family in this area (pointing to the south of the subject tract), and single-family (pointing to the southeast of the subject tract) in the surrounding, as well as some mixed multi-family uses that are scattered along.

I erroneously stated in the staff report that the property is unplatted, it is platted as Lot 2 except the south 100 feet thereof and the north 20 feet for the highway, Guilders Gardens, platted in 1923. If you do progress to look at conditions of approval, for a case like this I would suggest that you would need to consider access management issues that are suggested by the site plan. And, the site plan does show two access openings that are not in conformance with the Access Management Policy. Normally I wouldn't have thought that was a big deal because that would have been taken care of at time of platting, but this property does not necessarily need to be replatted. So, therefore it will need to be taken care of at this point.

I would like to discuss the site plan. One of the reasons I had originally requested deferral is because there is a skinnier strip, by 5 feet, that is not a lot in amount but it is 5 feet, between these two properties here (pointing to the subject tract and the abutting properties on the west and south), and I believe the agent will be wanting to speak with you about that.

I do not have actual architectural elevations that I have reviewed at this point, but the agent did provide some slides that show a prototypical designs that are built by the applicant. I will point out that these are residential design types of storage units and they are different than a lot of what you see for mini-storage, which have more of the appearance of a garage shed than they do of residential design.

If you look back into findings you will find what are my recommendations as to critical elements to look for, whether you defer today, recommend approval today, or recommend denial. Item 3 is the meat of the matter found in findings below:

Extent to which removal of the restrictions will detrimentally affect nearby property: The potential impact is to the surrounding residential uses. Introduction of LC zoning and uses on the west side of Garnett would represent a change from in the current use of the area as large lot residential use. GO zoning of the warehouse, self-service storage, could help mitigate this impact. GO is a commercial zoning district that allows uses more in character with close proximity to residential use and is what is on the tract one-eighth mile to the west along Jackson Heights Street. Another way to mitigate the impact would be to increase the width of landscape buffers, avoid doorways to storage areas opening directly onto Garnett Avenue since this street serves as the gateway to the residential area to the south, and southwest, limit heights of lighting (including poles, fixtures and base) to lower levels to avoid light spillage, and limit the intensity of commercial uses on the 0.75 acre commercial parcel at the corner of Garnett and Central to avoid the uses prohibited already by the CUP to the east and to eliminate auto-related uses and drive-in and drive-through restaurant uses that have more impact than office or general retail types of commercial uses on nearby residential development.

The Traffic Engineer would look at one traffic opening. And, I had suggested that there be only one point of access and that there would be shared access between the two tracts, and that you would have that shared access by either straddling the property line between the mini-storage and the free standing tract or be (located) on the mini-storage warehouse site. There is not a restriction on traffic openings on Garnett because it is considered a local street so it is not subject to access management. That (referring to any restrictions on access) would have to be done by dedication of access control if you are not platting the property.

RUSS EWY, BAUGHMAN COMPANY These are very high quality storage units. We were not able to provide architectural elevations, but we were able to provide actual pictures of the finished product. These are actual pictures of what this type of development looks like and, obviously, the high quality and the expense, which the applicant puts into his projects.

I would like to address the protective overlay that was mentioned in dealing with this three quarter acre out parcel. We would simply go through and quantify a list of prohibited uses that are very similar to ones that we deal with everyday and similar to ones that we placed on the Clifton Heights Commercial Unit Plan. That would be a prohibition on sexually oriented businesses, nightclubs, taverns, drinking establishments, group residences, correctional placements residences, car washes, and the vehicle repair uses, very standard prohibitions that would not be allowed to built on that out parcel.

The second item of the protective overlay that we would propose, again addressing what Donna stated, that we would work with the Traffic Engineer to provide appropriate access controls along the Central frontage. We would provide cross-lot access between the out parcel and the self-storage use.

The one issue that stands between staff and the applicant is the depth or width of this perimeter setback along the west and south property lines. There is some discussion and debate back and forth about why that is 10 feet and not 15 feet. The 15 feet is indicated in the Zoning Code Supplementary Use Regulations as being 15 feet where adjacent to residential zoning. It provides later in that section of the Zoning Code an allowance to reduce that between 5-10 feet in the event that the adjacent property is planned for commercial or office or non-residential zoning or if the Comprehensive Plan Land Use Guide shows that property as being suitable as non-residential zoning.

We have somewhat of a unique case in that when I was on planning staff and before the Plaza Real Estate development and the mid-mile took up some of the general office zoning, the Comprehensive Plan obviously showed single-family residential uses from

corner to corner, from Greenwich to 127th Street and that everything in between the corners be residential. With the Plaza zone change, that obviously altered the land use pattern along this stretch of Central Avenue.

The Comprehensive Plan then, in 1999, was changed to reflect both sides of Central being stripped with office institutional uses at the time. I was made aware that had been changed last year back to the way it was in 1992, that it did not show non-residential uses adjacent to it. So, needless to say, the supplementary use regulations are just that, they are an addition to regular Zoning Code building setbacks. One can, as we are in this situation, be able to request to the Planning Commission with the Governing Body's approval a reduction of those standards. In this situation, in order to make the site work from an economic standpoint, in order to maintain the amount of self-storage available on the site, we are requesting that instead of the 15 feet of setback we would ask for a reduction of that to 10 feet. One of the foundations of that request would be, as you saw, the intensive and very mature and existing growth along the west property line specifically and the ability to provide new plantings along the south side.

There is also a residence on the market, according to information that I received, who is in favor of this application. So, really if you notice there is some opposition from the west, that buffering which primarily exists on our side of the property line if not on the property line, is able to provide, in addition to the actual design of these storage units, incredible buffering to the actual use in the interior of the property. We would be asking for this stretch of Garnett to be heavily landscaped and a landscape plan would be provided to staff for approval. So from that standpoint, we feel very confident knowing the nature of the design, the location of the property, the fact that surrounding would be protected by not only the design of the facility but also existing vegetation.

WARNER Sounds to me like the landscaping or the buffering requirements you are deferring to your neighbor to take care of, because what if your neighbor goes in and cuts those trees down?

EWY The vast majority of those trees are on our property and we would take issues with somebody trespassing and cutting down those trees.

WARNER You didn't indicate that the same people own the property to the west?

EWY No, that is a different ownership.

WARNER I am confused, where the buffer is then.

EWY There is a stand of trees along the south property line which is here. These trees buffer the existing house, which is towards the west center of the property in question. This would be the stand of trees that are right along the property line. There are deciduous trees that make up the hedgerow here on the other side of the property line not owned by the applicant; there are several large evergreen trees. Starting back here and working south, those trees are placed on our property. In the southwest corner of the property there is a stand of trees, which are clearly within our property line.

DUNLAP Are you the owner or contract purchaser?

EWY My applicant is the Contract Purchaser.

DUNLAP We had a land use plan for the north side of Central and they abandoned that use because of potential water pollution. Has that problem been solved?

EWY Not to my knowledge. I am not aware of the extent of that issue; I know that it affected the property. My understanding is that it is on a plume that is on the northwest corner of that property, probably several thousand feet from this property.

BISHOP One of the issues listed in the findings had to do with the opening of storage units onto Garnett, I can't tell from the drawing whether the intention is that the openings could be in between.

EWY These three building would face and have openings onto Garnett. The Zoning Code allows that to happen provided that you have a 40-foot setback, which we do have. I should note that on the other side of Garnett is "LC" Limited Commercial zoning. There is no residential use on the east side of Garnett. However, there is residential traffic, which obviously utilizes Garnett and which I believe is Donna's point of providing some sort of treatment, which would basically be from this south point up north in this location. You would have a landscape buffer where I am illustrating here that would be planted in addition to the setback. We really don't have the residential use across the street that would be very problematic; we are looking at the rear of the retail strip center, which faces east of this location.

ALDRICH You wouldn't be looking at any type of wall or fencing at all? It will strictly be natural vegetation?

EWY At this location or around the perimeter?

ALDRICH Around the entire perimeter.

EWY Around the perimeter is a very standard, traditional use of the backs of buildings, wrought iron fencing with plantings at the nodes, wall, planting at the nodes, etc. And having done this both as a staff member as well as a planning consultant, time and time again these things are debated at each and every Planning Commission hearing that I have ever been to, and each and every time, the reason for that method of design around the perimeter is obviously the building is a nice building material as we have in this case, provides the ultimate as far as protection. If you are over here, you are not interrupted by activities that happen in the center of the storage facility. The use of wrought iron as opposed to a masonry wall is due to security reasons. There is an advantage to being able to have visual access into the property from the street or from the adjacent properties. It also provides a depth view, and that is better to look at the property, to have some visual depth difference, and being able to look into the property although it will be screened with landscaping. (Shows pictures of examples)

DUNLAP You mentioned the house to the south that was for sale. Is that the one that is in the middle of the property or the one at the south end of the property?

EWY On the very front page of the pictures that I sent out, you can see the house. This is the house to the south. This is the house that is within the subject property, which will be removed. This is under contract, and this other property is for sale separate.

MARNELL The house to the south faces Garnett?

EWY Correct, we are looking at the north side of the garage.

MATT DOLAN, General Manager, Cresthill Suites My Company has invested over two million dollars in the hotel that we operate on Central. We are opposed to the use of storage facility within the neighborhood. The proposed use of a storage system is significantly different than the existing character in the direction of Central. We feel this would be a negative tone and a downward trend for the developments along Central. The land around the proposed site right now is residential, for the most part, particularly around to the south. The residences that would travel along that street would actually drive past that facility on Garnett, so we would have residences as well as hotel guest and business people.

The existing business that we have and the business next to us is of a substantial quality in character. We feel that a use of a storage facility within that area would be a downward impact. There is no gain to public safety or welfare to the area, despite the loss of property value that could exist to the current property owners, but there would be no loss of property value to put a different kind of business on that lot. We feel that this development will be a devaluing of our property and our business. We are not the only neighbors in the area that are objecting to the use of this land.

K'LYN SCHUESSLER, 11083 SW 50th, Towanda KS 67144 I am here representing my brother, Scott Schuessler, who owns the property on the other side of the property line directly west. He works for the Boeing Company and is currently living in China. I believe each one of you have a copy of the letter that he wrote, so I don't need to reiterate the things that are in that letter. However, in listening to the statement earlier about the tree line that is a buffer, I guarantee you that I have mowed that 3 1/2 acres and those trees are not a buffer. Ten feet away from that property line is less than from me to you. Now, tell me that is going to be any kind of a buffer. You can see clear to Garnett Street. He spoke of the large pine trees; those pine trees are straight to the north. We had a terrible ice storm last year and those trees are very, very thin now; there is no buffer at all. And, in the fall when there are leaves on the trees, which is less than 6 months of the year, it helps some but it will not be a buffer. During the winter it is going to be very, very, ugly.

He also mentioned that it might not be a high traffic area with storage but versus a business that is open 8-5 p.m. This is going to be 24-7 traffic that is possible to be in there, and a lot of it can be evening and weekends.

This is a very nice lake. One thing in the staff report, it mentions a small lake. It is not a small lake at all, it is at least 10 acres, and this lake has been there, and this is a very nice residential neighborhood, and it has a very open look. This high-density structure would be very detrimental to everybody's property and especially my brother's property. It would be very, very, hard to sell that as residential; we currently have it rented while he is living in China. It would be hard to sell as residential, and hard to sell as commercial because of the small shape of it with limited Central access. And, it opens back to the back with a cove and a nice house, but who is going to want to live there when they look to the east and all they ever see, instead of a sunrise, is see a storage unit.

TIM BUCHANAN 7309 E 21st Street North, Suite 110, Wichita, KS 67206 I am the owner of a parcel that is immediately across the street from this, and the final plat of the Crestlake development did pass the City Council last Tuesday. It has not been recorded, which is why it is not on the display, but it is a 65-lot residential development, single-family, that is immediately across Central from the proposed site.

I did not see the site plan until just today when I came into the meeting. I think the photographs are all really attractive photographs but the photographs don't represent the site plan. They represent a very significant amount buffer of land and buffer of trees where storage backs up to single-family homes. And, the other adjacent uses represented in the photographs are multi-family or duplexes, typically rental housing, of which none exist here.

This is all single-family, Crestlake that we are going to build across the street, is all single-family homes. And, we hope to be in the \$250,000 to \$400,000 price range, and I am not sure the impact that this development will have on it. I think the responsibility for buffering here on this site plan has been put on the adjacent landowners because there is not sufficient buffering shown.

The fact that there is a fence, and that there is lighting, and that there is a guard is an indication that criminals will want to get in this site. We will probably disagree about this, but that is what bothers residential homeowners living nearby, is that potential threat and that potential element in the community. I would reiterate what the gentlemen from Cresthill Suites indicated. I am concerned about the other future development that may come adjacent to this and what happens to the other land that is near this and the amount and type of development that may come adjacent to it.

MARNELL The development you are planning across the street, will that have limited access to Central?

BUCHANAN We tried that but actually failed getting limited access to Central, the site plan, and you won't be able to see this, but we have two access point on Central. That property corner there is directly across the street from the northwest property corner of the proposed site. So we are exactly diagonal and we have an entrance street right there that is 144 feet from the proposed site. These houses sit up a little higher in elevation, so these houses will be looking down into the proposed site.

MARNELL So your property is across the street to the west?

BUCHANAN Yes.

JOHN GREENSTREET, Plaza Real Estate, 401 N. Belmont, Wichita, KS 67208 I developed the property where Plaza Real Estate is, and also where Cresthill Suite is. And when we developed that, we got a 150-foot setback from the centerline of Central and I noticed on the development here it doesn't require that. I think Bill Ard does a very nice job of his self-storage units in and around the city and does a very fine job. However, I think this is the wrong place at this time for those types of units.

EWY In trying to be diplomatic as it relates to the Plaza and the Cresthill Suites development, I seem to recall articulating a former planning directors comments that mid-mile zoning to a non-residential zoning district would also set a negative tone for the Central corridor, and was very concerned with its effect on development along Central Avenue. Obviously, one can drive by a lot of old storage units and what they see is metal buildings. They see them through a complete wrought iron fencing; it looks like a military depot. This is not the case. They mentioned that there will not be landscaping along Central, there will be landscaping along Central.

BILL ARD, Applicant, I have been in this business 35 years and I have built 60 of these storage areas. We get recruited by lots of cities who think of our product as a buffer between commercial and residential. We have eight facilities in Wichita. Three of them have 360 degrees of residential zoning around them and residential use. We back up to million dollar houses in Denver, and in Illinois. We have these discussions with planning groups often, and the residents find it hard to visualize even when they can see what we do. We are the Cadillac of the business, not the Pinto. This is a service for all of us. We had a lot of opposition at Douglas and Maize, for example. The residents there are customers and like the facility; the same is true of Kellogg and Hillside. One thing about the buffer, we are willing to offer to double up on the plant material in the buffer area, and the backs of our buildings are designed to be screening walls.

HILLMAN On the west side if there is not year around foliage that you are going to be providing that on your property line?

ARD I wouldn't think perhaps year around foliage on the property line, but the back of the buildings are designed as attractive screening walls and there would be extra foliage that we would plant in our setback on the back side of that on the west side.

MARNELL I am apprehensive, I don't have a problem with the use and the type of use for the facility. They don't really have the elevations locked down so that we know when we are doing the conditional use part for the storage, as opposed to the LC Limited Commercial zoning, exactly what is going to show out onto the portion that goes on Central. I think the design of how this piece will fit in here and those past properties would make a attractive piece, and whatever gets developed on the out parcel, if it happens in a reasonable period of time, is going to screen the rest of that. That is my only concern.

DUNLAP I don't have that attitude. We have a lot of history on that section of Central out there that is not aiming this direction. I was on the Planning Commission when we made the decision, when we selected, and allowed and zoned the property for the hotel and one of the business offices out there. I go back a long way with the history of the north side of the street before the Parkers owned it, and I see a note from Todd Parker here, and that young man has had to go to a lot of trouble keeping his property the way that he wanted it so it would develop the way they are proposing to develop it.

I have a problem with something that was said about the house to the south. That house belongs to Trey Banford and as of two days ago, that house was not on the market. I would assume if you went to Trey and said I will give you \$1/2 million for your house it would be saleable, but he doesn't understand what is about to happen. I don't think he has seen those pictures of that wall that he is going to be looking at.

I look at what we did on the east side with the shopping center development, and we spent hours and hours talking about if that was the right thing for Central and what the signage ought to look like, and what the shopping center should look like, and then there were a lot of exceptions to that approval. I don't think self-storage is what the vision was for this area.

BISHOP I was on the MAPC when the early developments were considered. And I am pretty sure that I voted against the mid-mile development because of exactly what it is that we have got here, is called stripping out. So I intend to support the application.

MOTION: To approve the application.

MARNELL moved, **BISHOP** seconded the motion.

BISHOP The discussion of the fact that this has already been platted, I believe that the testimony by the applicant indicates that he is more than willing to comply with the Access Management Policy, so that would address that.

MARNELL I want to make that as part of the motion as well.

GOLTRY And the other protective overlay restrictions?

MARNELL On the uses?

GOLTRY Yes.

BISHOP I agree.

WARNER I am going to oppose the motion because I don't think this is the place to put self-storage.

MOTION carried 7-4. (**WARNER, SHERMAN, ALDRICH, DUNLAP** opposed)

14. **Case No.: DER2006-06** - Request Amendment to Sections 3-104 and 3-105 of the Subdivision Regulations relating to applicability and exceptions

As included in the attached Ordinance, the revisions are proposed to sections 3-104 and 3-105 that are designed to give the zoning administrator some flexibility in issuing a building permit for a site where the expense of platting outweighs any benefit to be received from platting.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

15. **Case No.: DER2006-08** - Request the City of Valley Center seeks annexation of various tracts of land located adjacent to the City of Valley Center – Resolution No. 498-06

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ANDERSON** seconded the motion, and it carried (11-0).

The Metropolitan Area Planning Department informally adjourned at 5:22 p.m.

State of Kansas)
Sedgwick County) ^{ss}

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2006.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)